



Law No. 2020 - 005 on Insurance

The National Assembly and the Senate adopted in their respective sessions on 2 July 2020,

The President of the Republic,

In view of the Constitution,

In view of Decision n°14-HCC/D3 of 31 August 2020 of the Supreme Constitutional Court,

Enacts the following law:

TITLE I: INTRODUCTORY PROVISIONS

CHAPTER 1. PURPOSE AND SCOPE

Section 1. Purpose

Article one. The purpose of this Law is to lay down the conditions for carrying out insurance and reinsurance operations and the terms and conditions for supervising insurance and reinsurance service providers in the territory of the Republic of Madagascar.

The provisions contained in this Law shall apply to all insurance and reinsurance operations carried out by insurance and reinsurance service providers.

However, if this Law is silent on particular points, the ordinary law shall apply.

Contractual stipulations contrary to the mandatory rules laid down by this Law shall be deemed to be unwritten.

The terms "insurance operations" used in this Law refer to "insurance or reinsurance operations", except where specific provisions are made in respect of insurance or reinsurance transactions themselves.

Section 2. Reporting entities

Article 2. This Law shall apply to providers of insurance or reinsurance services provided for in Title VII of this Law, which are classified as:

- insurance or reinsurance undertakings, abbreviated to "IU";
- branches of foreign reinsurance undertakings;
- insurance or reinsurance intermediaries, abbreviated to "IRIs";
- distribution channels.

The terms "insurance service providers" used in this Law refer to "insurance or reinsurance service providers", except where specific provisions are made for the insurance or reinsurance providers themselves.

The IUs refer to any legal person who carries out, as a regular occupation, one or more of the insurance or reinsurance operations provided for in Articles 5 and 8 to 12 of this Law.

The IRIs are any natural or legal person who carries out, as a regular occupation, the presentation of insurance or reinsurance operations provided for in Articles 5 and 8 to 12 of this Law on behalf of IUs and clients.

Section 3. Non-reporting entities

Article 3. The following are not subject to this Law:

1. the National Social Security Fund, the Caisse Nationale de Prévoyance Sociale, C.Na.P.S in abbreviated form for its management of social insurance operations;
2. Public Institutions of an Administrative Nature under the supervision of the Ministry of Finance;
3. all tontine entities or tontines, whether they are legal entities or not, which bring together members to constitute a common fund by means of premiums or contributions for the purpose of granting compensation in their favour;
4. any groupings of natural persons with no legal personality brought together on a temporary basis to set up a common fund by means of premium or contribution from the members carrying out, in their own interest or their dependants', any action of providence, mutual assistance and/or solidarity, in order to provide preventive and curative health care as well as social protection;
5. any private entity having adopted the legal form of an association or a non-governmental organisation which carries out, in a regular way, any action intended for the above groupings.

The Ministry in charge of Finance sets by decree the conditions for carrying out the activity and the criteria applicable to tontine entities, groupings and entities provided for in points 3 to 5 above. It shall maintain and publish the list of these entities on its website.

When the criteria required by the mutual insurance companies provided for by this Law and its implementing legislation are met by these entities, the latter shall submit an application for approval as a mutual insurance company in accordance with the provisions of Article 229 of this Law, within three (3) months from the notification by the Ministry in charge of Finance.

CSBF is consulted on any draft decree applicable to these groupings and entities.

CHAPTER 2. DEFINITIONS

Article 4. Within the meaning of this Law, is defined as:

1. **Independent director:** any member of the Board of Directors who is not a shareholder and has no relationship of any kind with the IU or the entities of the group to which the IU belongs, that could compromise his freedom of judgement or lead to a conflict of interest;
2. **Alienation:** any transfer of ownership for valuable consideration by sale or free of charge by gift or any other method of divestiture of the insured item;
3. **Coinsurance:** any IU with a general mandate to act on behalf of the other co-insurers in the management of the insurance policy and claims under a co-insurance operation. In particular, it determines the conditions of insurance and the pricing;
4. **Arrears of the annuity:** any amount of the periodic payment of the annuity;
5. **Insured:** any person on whose life or interests the risk of the occurrence of the insured event rests, i.e. the person whose life, physical integrity or assets are exposed to the risk covered;
6. **Insurance certificate:** any document by which the IU certifies the existence of an insurance contract for the benefit of the insured and in which the guarantees offered are summarised;
7. **Damage:** all damage and losses which may occur during the sea voyage, both in terms of total loss of the vessel and the material damage suffered by the vessel or the goods, and all expenses of an exceptional or abnormal nature which may be incurred in the course of the voyage in order to save the shipment;
8. **Common damage:** any damage when, and only when, intentionally and reasonably, an extraordinary sacrifice is made or an extraordinary expense is incurred for the common safety, in order to preserve from peril the properties engaged in a common maritime adventure;
9. **Special damage** means any damage to the vessel or goods other than any voluntary sacrifice for the common safety;
10. **Beneficiary:** any natural or legal person designated by the insured and who receives the capital or the annuity due by the IU;
11. **BFM:** Banky Foiben'i Madagasikara;
12. **Representative office:** any IU office, whose head office is located abroad, which has no legal personality, carrying out exclusively any information and representation activity on the territory of Madagascar;
13. **Mutualist certificate:** any security issued by a mutual insurance company, representative of a share of its institution fund;
14. **Terms and conditions:** all clauses indicating in particular the rights and obligations of the parties, the conditions of the guarantee, the compensation principle, the procedures in the event of a claim/damage, disputes, recourse and exclusions from the guarantee;

15. **Special conditions:** all clauses supplementing the terms and conditions pertaining, in particular, to the identity or corporate name, the address of the insured, the person or property insured, the nature and special situation of the property to be insured, the amount of insured values, the guarantee maximum amount, the excess amount, the terms and conditions of premiums or contributions payment;
16. **Damage Commissioner:** any person appointed by the IU to carry out loss and damage recording during maritime transport at the point of destination or in the course of the journey ;
17. **Insurance contract:** any agreement by which the IU commits itself , in return for a remuneration, premium or contribution, to pay a compensation or a benefit to the insured or to another party in the event of the occurrence of a risk, a specified loss or the occurrence of an index. Several risks may be covered by a single contract, referred to as a multi-risk contract;
18. **Electronic insurance contract:** any insurance contract entered into between the IU and the insured or the policyholder by means of any electronic, magnetic, biometric or computerised instrument;
19. **Life insurance contract:** any insurance contract by which, in return for a single or periodic payment of premiums or contributions, the IU guarantees benefits whose execution depends on the survival or death of the insured. The beneficiary receives the capital consisting in the payments made, plus interest and profit-sharing in exchange for a single or periodic premium or contribution;
20. **Capitalisation contract:** any insurance contract under which, in return for a single or periodic payment of premiums or contributions, the beneficiary receives the capital formed by the payments made, plus interest and profit-sharing. The probability of death or survival is not taken into account in determining the IU benefits;
21. **Return of premiums assurance:** any guarantee intended to reimburse premiums or contributions, possibly with interest, in the event of the insured's death before the expiry of an insurance contract;
22. **Insurance broker:** any natural or legal person acting on its own account, without being linked to one or more IUs. It is mandated by policyholders to enter into an insurance contract on their behalf;
23. **Reinsurance broker:** any natural or legal person acting on his own behalf, without being linked to one or more reinsurance companies. It is mandated by the policyholders or IUs to enter into a reinsurance contract on their behalf;
24. **CSBF:** Commission de Supervision Bancaire et Financière (Banking and Financial Supervisory Commission) established by the Banking Act or administrative, regulatory, supervisory, disciplinary and crisis resolution authority of the IUs and IRIs;
25. **Cyber security:** any mechanism to prevent, manage and mitigate the risks associated with any illegal act punishable under the cybercrime regulations;
26. **Forfeiture:** any loss of the right to compensation for a loss or damage resulting from the failure of the insured to comply with one of its contractual commitments or obligations under this Law or its implementing legislations, without this leading to the nullity of the contract;

27. **Abandonment:** any transaction involving the transfer of ownership of the insured item, in the event of a claim, to the IU benefit in return for payment to the insured of the full sum guaranteed;
28. **Damage:** any prejudice or infringement of subjective rights which warrants redress or compensation;
29. **Non-material damage:** any damage resulting from the deprivation of the enjoyment of a right, the loss of a benefit or the interruption of a service provided by a person or by movable or immovable property;
30. **Financial education:** a set of actions aimed in particular at:
 - providing basic knowledge about the use of financial products and risks in order to enable consumers to make appropriate choices, manage their budgets more efficiently and make better use of insurance services;
 - instilling certain values and practices related to the use of insurance services;
 - clearly explaining consumer protection regulations, including consumer rights and obligations of the IUs;
31. **General purpose financial statements:** a comprehensive and inseparable set of accounting and financial records that give a true and fair view of the financial position, performance and changes in the position of the IU at the balance sheet date in accordance with the accounting rules in force;
32. **Marine cargo:** any goods that can be shipped and transported;
33. **Deductible:** any part of the outstanding claim amount to be paid by the insured and defined in the contract;
34. **Guarantee:** commitment of the IU to the insured or beneficiary in the event of the occurrence of a risk specified in the terms of the insurance contract;
35. **Group of undertakings:** a group of undertakings composed of a parent undertaking, its subsidiaries, and the entities and natural persons linked to it according to the criteria defined by CSBF instructions;
36. **Compensation:** any sum paid by the IU in accordance with the provisions of the contract as compensation for the prejudice suffered by the insured or the victim in the context of damage insurance;
37. **Financial inclusion:** all access to appropriate and local financial products and services such as savings, credit, money transfer, payment and insurance provided by sustainable financial institutions and used by all segments of the population;
38. **Financial infrastructure:** any technical platform or information system set up for the purposes of the financial sector in which financial service providers are participants, affiants or users as appropriate;
39. **Banking Act:** law governing the activity and supervision of banking service providers in Madagascar;

40. **Cover note:** any document which gives concrete expression to the commitment of the IU and the insured and which proves the existence of an agreement pending the establishment of the final insurance contract;
41. **Information notice:** any document describing, in particular, the premium or contribution payable by the insured, the guarantees offered, the exclusions and the obligations of the insured;
42. **Supervisory body:** any body performing the internal audit function within the IU and the external audit carried out by the External Auditor;
43. **Insurance policy:** any document evidencing the insurance contract entered into by the IU and the policyholder for the risk cover. This document evidences their mutual commitments including general and specific clauses;
44. **Premium or contribution:** any sum payable by the policyholder of an insurance contract in return for the guarantees granted by the IU. It may be fixed or variable. Its rate is set by the IU in proportion to the risk it represents;
45. **Insurance application:** any document or questionnaire issued by the IU to a prospective insured, on which the latter must provide the information needed for the IU to assess the risk to be covered and to determine the cover conditions;
46. **Technical provision:** any amount set aside by the IU to meet its liabilities;
47. **Redemption:** any early payment to the insured of a percentage of the savings under a life insurance or capitalisation contract. The redemption of the entire savings terminates the contract;
48. **Annuity:** any sum paid periodically by the IU as a benefit to the insured or the beneficiary of a life insurance contract for a set period or for life;
49. **Homogeneous and dispersed risks:** a set of risks of the same category or nature that have the same chance of occurring within the framework of risk pooling among the insured. They should be sufficiently dispersed to avoid clustering risks that are likely to occur at the same time and in the same place, making clearing difficult for the IU;
50. **Systemic risk:** any risk of spreading the effects of an IU failure or bankruptcy on the stability of the financial system or on the social level;
51. **Financial stability:** any situation represented by a sound financial system, capable of fully performing its key functions and withstanding possible internal and external shocks;
52. **Claim:** any occurrence of the event provided for in the insurance contract;
53. **Underinsurance:** any reduction in the amount declared to the IU in relation to the actual value of the risk insured;
54. **Policyholder:** any person who requests the drawing up of an insurance contract, undertakes to pay the premiums or contributions and enters into the insurance contract with the IU by signing all the insurance policy documents;
55. **Branch of a foreign reinsurance undertaking:** any branch of a reinsurance undertaking, whose head office is located abroad, authorised by CSBF in accordance with the provisions of Article 230 of this Law;
56. **Over-insurance:** any overstatement of the amount declared to the IU in relation to the actual value of the risk insured;
57. **Additional premium:** any increase in the insurance premium or contribution as a result of an increase in the insured risk;

58. **Tontine:** any transaction carried out by an entity which brings its members together in distinct groups referred to as associations and distributes, at each of these associations expiration, the funds from the joint capitalisation of their premiums or contributions, after deduction of the loss allocated to management costs, among the survivors of the associations in the event of life or among the rightful claimants of the associations deceased members in the event of death, taking into account the age of the members and their payments;
59. **Transaction:** any amicable agreement between the IU and the insured on the compensation settlements.

TITLE II: INSURANCE TRANSACTIONS

CHAPTER 1: GENERAL POINTS

Section 1: Insurance - business line - class of insurance - rules

Article 5. Insurance is the transaction by which the IU undertakes, in return for a remuneration, premium or contribution, to pay any benefit to the insured in the event of the occurrence of a given risk or loss.

An insurance operations, as such, shall under penalty of nullity, be the subject of a written contract between the IU and the insured. It may be in physical or electronic form. The contract must meet the requirements set out in Title III of this Law.

Insurance operations are grouped together into two distinct business lines, "life" and "non-life". Each business line is further subdivided into several categories set by decree on the basis of CSBF proposal.

The "life branch" refers to any insurance that covers risks whose occurrence depends on the person's survival or death, such as life insurance, death insurance and pension insurance.

The "non-life branch" includes insurance operations that do not concern the life of the insured, such as damage, liability, health, property, accident and agricultural risk insurance.

The special rules governing the following insurance contracts or insurance operations are provided for in TITLE IV and V respectively of this Law:

1. Life branch
 - life insurance and capitalisation;
2. Non-life branch
 - non-marine damage insurance;
 - marine, inland waterway and air damage insurance;
 - compulsory insurance.

Article 6. Risks in Madagascar, the persons domiciled there as well as the related liabilities must be insured by contracts underwritten and managed by IUs approved in

Madagascar.

This Article shall not apply to contracts entered into by the Malagasy State by virtue of its membership or holding of a participation in an international financial organisation or institution.

Article 7. CSBF shall establish by instruction the terms and conditions for implementing the insurance operation provided for in this TITLE.

Section 2. Reinsurance

Article 8. Reinsurance is the operation whereby the insurer or ceding party transfers to one or more reinsurers or assignees all or part of the risks which it has itself agreed to cover.

The assignee may, in turn, assign this guarantee to a third party. The assignee becomes a retroceding party and the third party a retrocessionnaire.

The reinsurer agrees to cover the risk ceded by an insurer in return for payment of a portion of the reinsurance premiums or contributions corresponding to the risk transferred under a reinsurance contract or treaty.

The reinsurance contract or treaty shall determine the method of risk transfer between the parties. The implementation of the reinsurance operation requires, in particular, prior knowledge of the financial capacities of the parties to the contract or treaty, whose implementation terms and conditions are laid down by instruction from CSBF.

The ceding insurer remains solely responsible for all of its contractual obligations to the insured.

Any change such as the rate of premiums or contributions, risk aggravations, cancellations, claims settlements may be opposed by the ceding party to the assignee.

The reinsurer may be either an undertaking under Malagasy law authorised under this Law or a foreign reinsurance undertaking.

Any foreign exchange transfer operation carried out by an IU under Malagasy law for the benefit of a reinsurance company headquartered abroad shall be carried out in accordance with the foreign exchange regulations in force in Madagascar.

Section 3. Co-insurance

Article 9. Co-insurance is the transaction by which two or more IUs, referred to as "co-insurers", insure the same risk or the same set of risks, by means of a single contract, in return for payment of a share of the premium or contribution by the IU designated as "leading insurer", as defined in Article 4 of this Law, according to the risk accepted by each co-insurer.

The leading insurer's general mandate is to act on behalf of the other co-insurers. In particular, it is responsible for:

1. determining the conditions of insurance or pricing;

2. entering into the contract and collecting the full premium or contribution;
3. paying out the percentage of the premium or contribution corresponding to the share of each co-insurer in the contract. The latter receives a premium or contribution rate amounting to
4. the same percentage as its commitment rate in the total risk cover;
5. paying taxes on insurance contracts;
6. exercising, where appropriate, the right to compensation against the co-insurers up to their respective share;
7. taking action to recover the premium or contribution in the event of non-payment by the insured and initiate legal proceedings;
8. handling claims and settling all compensation due to the insured.

In the case of a damage, there is no solidarity between the co-insurers in their relationship with the insured. Each co-insurer's risk cover shall be limited to the proportion or share of the commitment it has accepted.

The leading insurer is not necessarily the IU which holds the largest share of the insured's risk cover.

Section 4. Microinsurance

Article 10. Microinsurance is any operation whereby all IUs provide risk cover to persons with little or no access to insurance services, in return for payment of a premium or contribution.

It is characterised mainly by the small amount of premiums or contributions and/or insured capital and by the simplicity of cover, underwriting formalities, contract management, claims reporting and victim compensation.

A microinsurance contract can be taken out by natural person, a legal person, a company or a community on behalf of its employees, clients or members.

Section 5. Digital insurance

Article 11. Digital insurance is the transaction whereby the IU provides its insurance services via any electronic, magnetic, biometric or computerised instrument for the benefit of an insured. The operation shall take the form of an electronic insurance contract defined in Article 4 of this Law.

When carrying out digital insurance, the IU must comply with this Law and its implementing legislations, the regulations governing electronic operations and the electronic signature.

Section 6. Index-based insurance

Article 12. An IU may issue index insurance contracts, where the compensation of the insured is made on the basis of the index level and the insured assets and not on the basis of an assessment of the insured's actual loss.

An index insurance contract can also include services that are not based on an index.

Where an insurance contract only includes index insurance benefits or where a damage only concerns an index insurance benefit, the insured person shall not be obliged to provide a statement of claim under Article 18 of this Law.

An IU providing index insurance benefits must have the benefits and the index product approved by CSBF. Insurance service providers shall comply with CSBF's instructions on the requirements and processes for index-based insurance products and benefits.

Articles 63 to 66 of this Law shall not apply to index insurance benefits approved by CSBF, provided that they comply with CSBF's instructions.

Article 408 of this Law concerning overinsurance shall apply only to the extent that overinsurance was widely and generally expected before the insured took out insurance.

Special rules governing index insurance contracts are laid down by CSBF instruction.

TITLE III: COMMON RULES TO INSURANCE CONTRACTS

CHAPTER 1. EVIDENCE, VALIDITY AND TRANSMISSION OF THE INSURANCE CONTRACT

Section 1. Insurance application

Article 13. Prior to entering into an insurance contract, the IU shall provide any potential or proposing policyholder with a copy of the draft insurance contract or with an information notice provided for in Article 4 of this Law.

The insurance application defined in Article 4 of this Law is an offer by the potential or proposing policyholder which is binding on him only once the insurance contract is signed or validated by the parties in the case of digital insurance.

A specific application made by any means that leaves a written record to enter into, extend or amend a contract or reinstate a suspended contract shall be deemed to have been accepted if the IU validates that application within a period of time to be determined by decree, on the basis of CSBF proposal.

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

Section 2. Conditions for the validity of the contract

Article 14. The insurance contract shall be written in French or Malagasy, according to the choice of the policyholder, in clear, precise and simple terms and in legible characters. It can be in physical or electronic form as the case may be.

The insurance contract shall include the words "unless otherwise agreed" on the clauses relating to the following points:

1. the exclusion of war risks;
2. the lack of solidarity of co-insurers;
3. the risks covered by fire insurance;
4. the contract in life insurance takes effect when the first premium or contribution is received;
5. the provision of compulsory information before, at the time of entering into the contract and during the contractual relationship in accordance with Articles 318 to 326 of this Law;
6. redemption fees for life and capitalisation insurance contracts with surrender values;
7. redemption and reduction rates.

Clauses relating to nullities, forfeitures, compensation rules and exclusions of guarantees must be written in bold or conspicuous characters.

Any amendment to the initial insurance contract shall be recorded by a rider signed by the parties.

The provisions of this Article shall not prevent the IU and the policyholder from being bound to each other, even before the contract or rider is issued, by the delivery of a cover note as defined in Article 4 of this Law.

Article 15. The insurance contract or policy, which indicates the general and special conditions, shall be dated the day it is taken out. It shall provide in particular:

1. the names and residences of the contracting parties, indicating, where appropriate, that the insurer is acting on behalf of other people;
2. the item or person or interest insured;
3. the place of subscription;
4. the nature of the risks covered;
5. the time from which the risk is guaranteed and the duration of the guarantee;
6. the cover amount granted by the IU;
7. the premium or contribution for the insurance and its terms of payment;
8. the penalty provided for in the event of non-payment of the premium or contribution by the insured;
9. the conditions for tacit renewal, if provided;
10. the cases in which and the conditions under which the contract can be extended or cancelled or its effects terminated;
11. the obligations of the insured at the time of subscription in the course of the contract, in particular the declaration of risk and the payment of premium or contribution;
12. the terms and conditions of the declaration to be made in the event of a disaster and the penalties for failure to make a declaration;
13. the timeframes within which the IU must make an operation proposal as well as the timeframes within which the compensation, or the capital or the annuity, must be paid

- after a complete compensation file has been completed;
14. the documents to be provided by the insured as part of a claim for compensation;
 15. the procedures, the claims management and dispute resolution mechanism ;
 16. the limitation period for actions arising from the contract and the cases of interruption and suspension of the said limitation period;
 17. the procedures and rules relating to the assessment of damage for the purpose of determining compensation for insurance other than liability insurance;
 18. the promissory note or bearer clause, if agreed.

The standardised models of insurance policies are laid down by CSBF instruction. They may be simplified in form and presentation under conditions laid down by CSBF instruction.

Section 3. Mandate – Account insurance

Article 16. Insurance may be taken out under a general or special mandate or, even without a mandate, on behalf of a specified person. In the latter case, the insurance shall benefit the person on whose behalf it has been taken out, even though its ratification would only take place after the loss.

The insurance may also be taken out on behalf of whomever it may concern. The effect of the insurance contract extends to the known or potential beneficiary of the contract.

The policyholder of an insurance taken out on behalf of whomever it may concern. shall be solely liable to the IU for payment of the premium or contribution.

The exceptions which the IU could raise against the policyholder may also be raised against the beneficiary of the contract.

Section 4. Transmission of the insurance contract

Article 17. The insurance contract may be to a named person, to promissory or to bearer.

Promissory contracts are transmitted by endorsement, even in blank.

Life insurance contract may be to order. It cannot be to a bearer.

The endorsement of a life insurance contract to order must, on pain of nullity, be dated, indicate the name of the payee endorsement and be signed by the endorser.

The IU may assert against the holder of the insurance contract or the third party who invokes its benefit, the defences that may be asserted against the original subscriber.

CHAPTER 2. RIGHTS AND OBLIGATIONS OF THE INSURED

Section 1. Reporting of risks and claims

Article 18. The insured must declare exactly to the IU by any means that leaves a written record:

1. at the time of entering into the contract, any circumstances known to him which may be required for the IU to have it assess the risks it assumes;
2. on the dates specified in the contract, any information which may be needed for the IU to determine the amount of the premium or contribution, where this is variable;
3. circumstances specified in the insurance policy which result in aggravating the risks in accordance with the provisions of Article 21 of this Law;
4. at the latest within a period set by decree, on CSBF proposal, from the time of knowledge of any disaster likely to involve the guarantee of the IU.

The aforementioned reporting periods cannot be reduced by agreement. They may be extended by mutual agreement between the contracting parties.

The penalty for late declaration cannot be invoked against the insured in all cases where the delay is due to a fortuitous event or force majeure.

Section 2. Intentional misrepresentation

Article 19. In addition to the ordinary grounds for nullity, the insurance contract shall be null in the event of the insured's omission or intentional misrepresentation by the insured, where such omission or misrepresentation changes the subject of the risk or diminishes its significance to the IU, even though the risk omitted or misrepresented by the insured had no influence on the loss.

The premiums or contributions paid shall then be retained by the IU as damages.

The provisions of paragraph 2 above shall not apply to life insurance contracts.

Section 3. Unintentional misrepresentation

Article 20. An omission or misstatement by the insured, whose bad faith is not established, shall not make the insurance null and void.

If the unintentional misrepresentation is established prior to any damage, the IU has the right to:

- either maintain the contract by means of a rider. The insured can refuse the amendments within a period fixed by decree, on CSBF proposal, from the date of notification by the IU. Such refusal shall entail the contract termination. without notice and the return by the IU of the portion of the premium or contribution paid for the period during which the insurance no longer applies;
- or terminate the contract within a period set by decree, on CSBF proposal, after notification to the insured by any means that leaves a written record with acknowledgement of receipt, and return the portion of the premium or contribution paid for the period during which the insurance no longer applies.

Should the unintentional misrepresentation be discovered only after the loss has occurred, the compensation shall be reduced in proportion to the rate of the premiums or contributions paid in relation to the rate of the premiums or contributions which would have been due if the risks had been fully and accurately declared.

Section 4. Aggravation or change of risk

Article 21. The insured has to declare, during the course of the contract, any new circumstances which result in either an increase in risk or the creation of new ones and thereby make the responses to the IU inaccurate when the contract was concluded.

The insured shall declare these circumstances by any means that leaves a written record or a countersigned form with receipt, within a period of time set by decree, on CSBF proposal, from the time he is aware of them.

If the new circumstances had been declared at the time the contract was entered into or renewed, the IU would not have taken out the contract or would have done so only for a higher premium or contribution, the IU shall have the right either to terminate the contract by refunding the part of the premium or contribution corresponding to the non-elapsed warranty period, or to propose a new premium or contribution amount.

The preceding paragraph shall not apply to life insurance contracts or to health insurance contracts where the health condition of the insured changes.

Conversely, should the aggravating circumstances mentioned in the contract disappear, the insured has the right to cancel the aforementioned contract, without compensation and with the reimbursement right of the fraction of the premium or contribution corresponding to the non-accrued period, if the IU does not agree to reduce the amount of the premium or contribution set at the time of taking out the contract.

If the IU maintains the insurance contract, it can no longer prevail upon the aggravation of risks after having been informed of it in any way.

Section 5. Payment of premium or contribution

Article 22. The insured is required to pay the premium or contribution on the agreed dates. Unless otherwise agreed, the premium or contribution shall be payable at any place and by any means specified in the contract.

IUs are prohibited, on pain of the penalties provided for in Article 273 of this Law, to take out an insurance contract for which the premium or contribution has not been paid or to renew an insurance contract for which the premium or contribution has not been paid.

As an exception to the principle set out in the preceding paragraphs, the IUs may grant the policyholder a period of grace for payment from the date of entry into force or renewal of the contract under the conditions laid down by decree, on CSBF proposal.

However, the policyholder shall sign an express commitment to pay the premium or contribution before the expiry of the period provided for in the contract. If the premium or contribution is not paid within the agreed time limit, the contract shall be terminated as of right. The accrued portion of the premium or contribution shall be retained by the IU,

without prejudice to any prosecution and recovery costs.

The provisions of paragraphs 2 to 4 of this Article shall not apply to life insurance contracts.

When the premium or contribution is unpaid, the insured shall be given formal notice to regularise the payment within eight (8) working days of receipt of the notice of default. At the end of this period, if the payment has not been made, the contract shall be terminated as of right.

The IU may not, either, by a provision in the contract, depart from the obligation to give notice or reduce the period provided for in the preceding paragraph.

The formal notice results from sending, by any means that leaves a written record with acknowledgement of receipt, a summons addressed to the insured or to the person responsible for paying the premium or contribution at their last address known to the IU.

The formal notice whose cost is borne by the IU, must expressly state that it is sent as a formal notice, the amount and due date of the premium or contribution.

The accrued portion of the premium or contribution shall be retained by the IU, without prejudice to any prosecution and recovery costs.

In the case of co-insurance, the lead insurer shall pay the shares of the premium or contribution due to the other co-insurers within fifteen (15) days of receipt of payment of the premium or contribution or the portion of the premium or contribution.

Premiums or contributions due by the lead insurer and not repaid to the other co-insurers shall as of right bear interest at twice the legal rate as from the expiry of the period for repayment provided for in the preceding paragraph.

Section 6. Entry into force of the contract

Article 23. The insurance contract shall enter into force upon payment of the first premium or contribution by the policyholder.

A contract which has not been terminated shall resume its effects for the future, at noon the day following that on which the outstanding premium or contribution or, in the case of a split annual premium or contribution, the fractions of the premium or contribution which were the subject of the notice of default and those that fell due during the suspension period, as well as, where appropriate, the costs of prosecution and recovery, have been paid to the IU or to the authorised representative appointed by it for that purpose.

This Article shall not apply to life insurance contracts.

In the case of digital insurance provided for in Article 11 of this Law, the guarantee of the IU shall take effect from the date of transfer of the first premium or contribution by the insured.

Section 7. Clauses deemed to be unwritten

Article 24. The following are null and void:

1. any general clauses forfeiting the insured's rights in the event of a breach of the regulations, unless the breach constitutes a crime or misdemeanour;
2. any clauses affecting the forfeiture of the insured to claim compensation for any delay in making the declaration of loss provided for in Article 18 of this Law or in producing documents, without prejudice to the IU right to claim compensation commensurate with the damage caused to it by the delay;
3. any arbitration clauses to which the insured did not expressly agree when taking out the policy;
4. any clauses by which the IU prohibits the insured or his representative from calling it into question or calling it as guarantor in connection with the settlement of claims;
5. any clauses stipulating that the period of limitation may be shortened by a clause in the contract.

CHAPTER 3. RIGHTS AND OBLIGATIONS OF THE IU

Section 1. Delivery of the contract

Article 25. The IU shall provide the insured with a written and signed copy of the contract in accordance with the information sheet provided to it and the application form completed and signed by the insured.

For digital insurance, the IU shall provide the insured with an electronic contract.

Section 2. Payment of claims

Article 26. Upon receipt of any reporting of losses, together with the documents necessary for the claim as mentioned in the insurance policy, the IU shall inform the insured within five (5) days if further documents are required to complete the claim file.

The IU can arrange for any necessary expert reports. It informs the insured person and invites him to take part in these expert reports.

If the IU considers that the damage should not be covered, it must give the reasons to the insured by any means that leaves a written record with acknowledgement of receipt within a period set by decree, on CSBF proposal.

The IU shall be required to pay the compensation or benefit determined in the insurance contract within the agreed period, which shall not exceed one (1) month after receipt of the required evidence by the IU or the IRIs.

Unpaid amounts within this period shall automatically bear interest at twice the legal rate from the date on which these amounts became due until full payment.

The IU cannot be held liable beyond the sum insured. It does not cover claims arising after expiry, suspension or termination of the insurance contract.

In any case where the IU reinsures, it remains solely liable to the insured.

Section 3. Partial settlement of claims

Article 27. In the case of force majeure resulting from bad weather and epizootic diseases of a particular severity, CSBF may authorise, on the advice of the Ministry of Agriculture in the case of bad weather and the Ministry of Livestock in the case of epizootic diseases, one or more IUs threatened with exhaustion of their available resources, to make only partial payment of claims due to these causes promptly.

The IUs which have obtained this authorisation shall give priority to the allocation of all surplus revenue subsequently established to the payment of the compensation balance remaining due to each beneficiary. The provisions of this Article shall not apply to activities in the life branch

Section 4. Offer of compensation

Article 28. If the risk is covered by the contract, the IU shall present the insured a detailed offer of compensation for each type of loss.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Section 5. Notice of due date of premium or contribution

Article 29. In the case of tacitly renewable contracts, on each premium or contribution due date, the IU is required to notify the insured or the person responsible for paying the premium or contribution of the due date and the amount of the sum due under the conditions laid down by decree, on CSBF proposal.

Section 6. Exclusions

Article 30. Losses and damages caused by fortuitous events or by the fault of the insured shall be borne by the IU, unless expressly excluded to a limited extent in the insurance contract.

However, the IU shall not be liable, notwithstanding any agreement to the contrary, for loss or damage caused by the insured's intentional or fraudulent fault. The burden of proof of the intentional or fraudulent nature of the fault lies with the IU.

The IU does not cover claims arising after the expiry or suspension of the policy cover and in the event of requisition.

Section 7. Risk selection

Article 31. The IUs are not obliged to accept all the business offered to them. They must ensure that they select risks and retain those that appear to be as homogeneous and dispersed as possible, as defined in Article 4 of this Law.

However, the IUs are bound to accept to insure the persons who have been refused an offer of insurance in the case of compulsory insurance under the conditions set out in Article 330 of this Law.

CHAPTER 4. DURATION OF THE CONTRACT - TERMINATION

Section 1. Generalities

Article 32. The duration of the contract must be mentioned in bold and very visible characters in the insurance policy. The contract must also state that the duration of the tacit renewal shall in no case exceed one (1) year.

Notwithstanding any clause to the contrary, the insured may terminate the contract every year, without compensation, on the anniversary of the date on which it came into effect, giving at least one (1) months' notice, except for fixed-term contracts.

This right to terminate the contract every year must be mentioned in the insurance contract. The same right belongs to the IU under the same conditions except for health insurance contracts, life insurance contracts and building insurance contracts.

The IU and the insured may waive, by including an apparent clause, their right to terminate the contract annually when the insured is a company that wishes to take out a multi-year contract.

Since the payment of claims by the IU is the very purpose of the insurance, any clause authorising the IU to terminate the contract after the occurrence of damages is deemed not to be written. However, it may be stipulated that in the event of a repetitive damage as provided for in Article 33 below or in the event of bad faith on the part of the insured, the IU may terminate the contract.

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

Section 2. Termination by the IU

Article 33. The IU may terminate the contract in case of:

- repetitive damages characterised by the identity of the object and the risk or the plurality of damages during the same insurance period;
- bad faith, deception or fraud on the part of the insured in the declaration of a damage;
- insurance fraud as provided for in Article 335 of this Law.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Section 3. Termination in the event of a change in the insured situation

Article 34. Where the purpose of the insurance contract is to cover risks directly related to a previous situation of the insured which is not reflected in his new situation, either party may terminate the contract upon the occurrence of one of the following events:

- change in residence;
- change in profession;
- occupational retirement or permanent cessation of professional activity;
- change in status or marital status.

The contract may only be terminated within three (3) months of the date of the event. A decree, on CSBF proposal, shall lay down the terms and conditions for the application of this provision.

The IU shall refund to the insured the portion of the premium or contribution corresponding to the period during which the cover did not accrue, calculated from the date of termination.

No compensation can be provided to the IU in the event of termination under this Article.

The date on which the notice period is opened due to the occurrence of one of the aforementioned events is the date on which the new situation arises. However, in the event of withdrawal or permanent cessation of professional activity, the starting point of the period is the day after the date on which the previous situation ends.

Where any of the events is constituted or established by a judicial decision, or where legal effects can be inferred from it only after certification or exequatur, the date used is the date on which that judicial act became final.

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

Article 35. The party wishing to terminate an insurance contract shall send to the other party, by any means which leaves a written record with acknowledgement of receipt, either a countersigned declaration or a declaration against a receipt, or an extrajudicial document.

If the cancellation request is the result of one of the events referred to in Article 34 above, the claimant shall indicate the nature and date of the event invoked and give any details likely to establish that the cancellation is directly related to that event.

Section 4. Disappearance or loss of the insured item

Article 36. The insurance shall be null if, at the time the contract is taken out, the insured item has already perished or can no longer be exposed to the risks.

The paid premiums or contributions shall be returned to the insured after deduction of costs incurred by the IU, other than commission fees where these have been recovered against the general agent or broker.

If the bad faith of one of the parties at the time the contract was entered into can be proven, that party shall owe the other party twice the amount of the premium or contribution for one insurance year.

In the event of total loss of the insured item resulting from an event not provided

for in the contract, the insurance shall be automatically terminated and the IU shall return to the insured the part of the premium or contribution paid in advance and relating to the time for which the risk was no longer incurred.

Section 5. Death of the insured or alienation of the insured item

Article 37. In the event of the death of the insured or the alienation of the insured item, the insurance shall continue by transaction as of right in favour of the heir or purchaser, who shall be responsible for fulfilling all the obligations which the insured is liable to the IU under the contract.

However, the IU, the purchaser or the heir may terminate the contract within a period of six (6) months from the day on which the final beneficiary of the insured items has requested the transfer of the contract to his name.

No compensation can be paid to the IU in the case of the aforementioned termination. The portion of the premium or contribution corresponding to the period during which the risk has not been incurred shall be reimbursed by the IU.

Should the insured item be alienated, the alienator shall continue to be liable to the IU for the payment of premiums or contributions due, but he shall be released, even as a guarantor of premiums or contributions, from the time he informs the IU of the alienation by any means which leaves a written record.

Where there are several heirs and several purchasers, if the insurance continues, they are jointly and severally liable for payment of the premiums or contributions.

The provisions of this Article shall not apply in the case of a land motor vehicle alienation.

Section 6. Bankruptcy or judicial liquidation of the insured

Article 38. The insurance shall continue in the event of bankruptcy or judicial liquidation of the insured. The trustee, the liquidator or the IU has the right to terminate the contract during a period of three (3) months from the date of the collective proceeding opening.

The portion of the premium or contribution relating to the time during which the IU no longer covers the risk is returned to the trustee or liquidator.

CHAPTER 5. PRESCRIPTIONS AND COMPETENCES

Section 1. Prescription

Article 39. Any action arising from an insurance contract shall become void after two (2) years from the event giving rise to it.

However, this period runs:

- in the case of omission or misrepresentation of the risk incurred, from the day the IU became aware of it;
- in the event of a damage, from the day on which the persons concerned became

aware of it, if they prove that they were unaware of it so far.

Notwithstanding the provisions of the first paragraph above, actions arising from an insurance contract of persons shall become void after five (5) years from the event giving rise to them.

When the insured's action against the IU is based on a third party's recourse:

- for freight transport by sea or land, the action shall be void within one (1) year, except in cases of crime or misdemeanour. The prescription is counted respectively for maritime transport from the date of arrival of the ship and for land transport from the date of the accident or the date on which the goods should have been delivered;
- for freight transport by air, the action shall become void after two (2) years from the date of arrival of the carrier aircraft;
- in other cases, the limitation period only runs from the day on which the third party has taken legal action against the insured or has been indemnified by the latter.

However, if there is total silence from the third party, no reservations and no correspondence within two (2) years from the occurrence of the loss, the two-year limitation period shall solely apply.

The prescription is extended to five (5) years in life insurance contracts and in personal accident insurance contracts, when the beneficiaries are rightful claimants of the deceased insured.

Article 40. The limitation period is interrupted by the appointment of experts following a damage or by one of the ordinary causes of interruption of the limitation period in accordance with the rules of common law. The prescription interruption may also result from the sending by any means that leaves a written record with acknowledgement of receipt sent by:

- the insured to IU of a claim for compensation payment;
- the IU to the insured of a claim for of the premium or contribution payment.

Section 2. Competent court

Article 41. In all jurisdictions relating to the determination and settlement of compensation due, the defendant, IU or insured, shall be summoned before the Court of the insured's domicile.

However,

- in the case of immovable or movable property by nature, the defendant shall be summoned before the Court of the risk location;
- in the case of insurance against accidents of any kind, the insured may summon the IU before the Court of the place where the harmful event occurred.

TITLE IV: SPECIFIC RULES FOR INSURANCE CONTRACTS

CHAPTER 1. LIFE BRANCH

Section 1. Life insurance contract and capitalization contract

Subsection 1. Generalities

Article 42. A person's life may be insured by himself or by a third party. Several persons may take out mutual insurance on the life of each of them by one and the same deed.

The guaranteed capital or annuity may be expressed in units of account consisting of securities or movable or immovable assets defined by the contract.

The contracting party or the beneficiary has the option, at the end of the contract, to choose between cash settlement and delivery of the securities or shares. However, where the account units consist of non-tradable securities or shares, settlement may only be made in cash.

The cash exchange value of the sums paid by the IU at the time when the risk occurs may not, however, be less than the value of the capital or the guaranteed annuity, calculated on the basis of the account unit value on the date of entry into force of the contract or, if applicable, of its last rider.

The IU shall communicate annually to the policyholder, by any means that leaves a written record giving a definite date, the IU being responsible for providing the evidence, the information enabling their mutual commitments to be assessed. This information obligation shall be the subject of a special clause in the contract.

Subsection 2. Subrogation

Article 43. In personal insurance, the IU, after payment of the sum insured, cannot be subrogated to the rights of the contractor or beneficiary against third parties in respect of the damage.

However, where the contract so provides, the IU which has paid the victim an advance on compensation as a result of the accident may exercise a subrogatory recourse against the person liable to pay compensation to the extent of the loss suffered by the insured and not compensated by that liable person.

Subsection 3. Consent of the insured person

Article 44. Insurance in the event of death taken out by a third party on the life of the insured shall be void if the latter has not given his consent by any means that leaves a written record, indicating the sum insured.

The insured's consent must, on pain of nullity, be given by any means that leaves a written record for any assignment or pledge and for any benefit transfer of the contract subscribed on his life by a third party.

Subsection 4. Insurance on the life of a minor

Article 45. It is prohibited for any person to take out insurance in the event of death on the life of a minor under the age of twelve (12). Any insurance taken out in violation of this prohibition is null.

Insurance in the event of death may not be taken out by another person on the life of a minor who has reached the age of twelve (12) without the authorisation of his legal representative. This authorisation does not exempt from the minor's personal consent.

In the absence of such authorisation and consent, the contract shall be declared null at the request of any interested party.

Subsection 5. Mandatory particulars

Article 46. In addition to the compulsory particulars provided for in Article 15 of this Law, the life insurance or capitalisation contract must indicate, on pain of nullity:

1. the life insurance contract:
 - the names, forenames and date of birth of the insured person(s);
 - the event or term on which the guaranteed capital or annuity is payable;
 - the payment terms of the guaranteed capital or annuity;
 - the conditions of the cash surrender values by the policyholder;

2. the capitalisation contract:
 - the amount of capital repayable at maturity;
 - the effective date as well as the due date;
 - the amount and due date of the premiums or contributions to be paid;
 - the payment terms of the capital.

Life insurance or capitalisation contracts must indicate the terms and conditions of the charges levied by the IU, whose calculation methods are set by decree, on CSBF proposal.

Other life insurance or capitalisation contracts with cash surrender values should state the charges levied in case of surrender.

Subsection 6. Right of withdrawal

Article 47. Any natural person who has signed an insurance application or a life insurance or capitalisation contract may withdraw from it by any means which leaves a written record within thirty (30) days of the first premium or contribution payment.

The return of the premium or contribution shall result in the nullity of the insurance contract.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Subsection 7. Suicide of the insured

Article 48. Insurance in case of death is null and void if the insured voluntarily kills himself during the first two (2) years of the insurance contract.

Subsection 8. Beneficiary appointment

Article 49. The insured capital or annuity may be payable on the death of the insured to one or more specified beneficiaries.

A stipulation by which the benefit of the insurance is attributed to one or more persons who, without being named, are sufficiently defined in the stipulation to be able to be identified when the guaranteed capital or annuity becomes payable, is deemed to be made for the benefit of specific beneficiaries.

In particular, the following persons shall be considered as fulfilling this condition of designation as beneficiaries:

- the policyholder's born or unborn children, the insured or any other designated person;
- the insured's heirs or rightful claimants;
- predeceased beneficiary heirs or rightful claimants.

Insurance taken out for the benefit of the insured's spouse benefits the person who has this status at the time of payment.

The heirs thus designated are entitled to the benefit of the insurance in proportion to their inheritance share. They retain this right in the event of renunciation of succession.

In the absence of a specific beneficiary designation in the contract or failing the acceptance by the designated beneficiary, the policyholder of the contract has the right to designate a beneficiary or to substitute one beneficiary for another. Such designation or substitution may only be made, on pain of nullity, with the agreement of the insured, where the latter is not the policyholder. This designation or substitution may be made either by means of an amendment to the contract or by way of a will.

If the insurance in the event of death has been taken out without designating a beneficiary, the insured capital or annuity forms part of the contractor's estate or inheritance. The same applies if the insurance was taken out with the designation of one or more beneficiaries and there is no beneficiary any more on the death of the insured.

The capital or annuity stipulated as payable on the insured's death to a specific beneficiary or to his heirs is not part of the insured's estate. The beneficiary, regardless of the form and date of his designation, is deemed to have sole right to it, as from the date of the contract, even if his acceptance is subsequent to the death of the insured.

The sums stipulated for the benefit of a specific beneficiary cannot be claimed by the policyholder's creditors. The latter are only entitled to reimbursement of the premiums

or contributions by the IU, where these are manifestly exaggerated in view of the policyholder's means and have been paid in fraud of their rights.

Subsection 9. Acceptance by the beneficiary

Article 50. The stipulation by which the benefit of the insurance is attributed to a specific beneficiary becomes irrevocable by the express acceptance of the beneficiary.

As long as the acceptance does not take place, the right to revoke this stipulation rests only with the policyholder and cannot, therefore, be exercised during his lifetime neither by his creditors nor by his legal representatives.

This right of revocation may only be exercised, after the policyholder's death, by his heirs after the insured sum has become due and payable and at the earliest three (3) months after the insurance beneficiary has been given notice by extrajudicial act to declare his acceptance.

The acceptance by the beneficiary of the stipulation or its revocation can only be invoked against the IU when it became aware of it.

If the insured and the policyholder are alive, the acceptance is made by a rider signed by the IU, the policyholder and the beneficiary. It may also be made by an authenticated or notarised deed signed by the policyholder and the beneficiary, in which case it shall have no effect on the IU until it is notified to the IU by any means which leaves a written record with acknowledgement of receipt.

Where the designation of the beneficiary is made free of charge, acceptance may only take place at least thirty (30) days after the policyholder is informed that the insurance contract has been concluded.

After the death of the insured or the policyholder, acceptance is free.

During the term of the contract, after acceptance by the beneficiary, the policyholder may not exercise his option to surrender and the IU may not grant him in advance without the beneficiary's agreement.

The gratuitous attribution of the benefit of a life insurance policy to a specific person is presumed to be made under the condition of the existence of the beneficiary at the time the guaranteed capital or annuity becomes payable, unless the contrary results from the terms of the stipulation show otherwise.

Subsection 10. Payment of premiums or contributions

Article 51. Any interested party may substitute for the contracting party to pay premiums or contributions.

The IU has no action to demand payment of premiums or contributions.

Failure to pay a premium or contribution under a life insurance or capitalisation contract may only result in the reduction or cancellation of the contract if the cash surrender value does not exist or is insufficient. The IU shall be obliged to inform the policyholder by any means that leaves a written record.

Should the insurance contract be terminated before the initially agreed expiry date, due to an event not provided for in the contract, the IU must return to the policyholder the portion of the premium or contribution relating to the time for which the risk has not been incurred.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Article 52. For all policies taken out and as long as they give rise to the payment of a premium or contribution, the IU shall inform the policyholder of the respective amounts of the cash surrender value, the reduction value, the guaranteed capital and the premium or contribution in accordance with the conditions laid down by CSBF instruction.

Subsection 11. Repurchase of a contract, reduction in guaranteed capital or annuity

1. Generalities

Article 53. The policyholder of a life insurance or capitalisation contract may request the repurchase of a contract under the conditions laid down in the contract.

In case of death In insurance contracts taken out for the insured's whole life without survival requirement, and in all contracts where the insured sums or annuities are payable after a certain number of years, failure to pay the premium or contribution can only result in the reduction in the guaranteed capital or annuity, notwithstanding any agreement to the contrary, provided that a certain amount of premium or contribution set by decree, on the basis of CSBF proposal, has been paid.

The methods for calculating the reduction value and the surrender value are determined in the general terms and conditions mentioned in the policy and established by the IU under the conditions laid down by CSBF instruction.

Upon signature of the contract, the IU shall inform the contractor that the document setting out the general terms and conditions is available to him at his request. The IU must provide the contractor with the aforementioned document on request.

At the request of the insured, the IU shall inform the insured in precise and clear terms of the meaning and consequences of redemption and reduction transactions.

2. Policy advances

Article 54. To the extent of the surrender value, the IU may grant advances to the policyholder. The annual interest rate at which the advance is granted shall be clearly communicated to the policyholder at the time of the operation. The calculation methods for the interest rate are laid down by CSBF instruction.

For life and capitalisation insurance, the IU cannot refuse the reduction or surrender when fifteen percent (15%) of the premiums or contributions provided for in the contract have been paid. In any case, the right to surrender or reduction is acquired when at least two (2) annual premiums or contributions have been paid.

The policy loan contract shall contain at least the following information:

1. the definition in precise and clear terms of the surrender and loan transactions and their legal and contractual consequences;
2. the number, date of entry into force and maturity date of the base policy, life assurance or capitalisation contract on which the policy loan is based;
3. the surrender value and the amount of the guaranteed funds of the base policy on the date of the transaction;
4. the surrender value and the amount of the guaranteed capital of the base policy on the maturity date of the policy loan contract in case of non-repayment;
5. the reimbursement period of the policy loan, which must be less than twelve (12) months;
6. the annual interest rate and the overall effective rate of the policy loan.

The methods for calculating the overall effective rate of the advance are laid down by CSBF instruction.

In any case, the maturity date of the policy loan contract should not be later than the maturity date of the base contract.

Article 55. The IU can automatically substitute surrender for reduction if the surrender value of the contract is less than the amount set by CSBF instruction.

3. Insurance without surrender or reduction

Article 56. Temporary insurance in the event of death as well as immediate or current life annuities cannot be reduced or surrendered.

Survivor's capital and survivor's annuity insurance, life insurance without counter-insurance and deferred life annuities without counter-insurance cannot include a surrender.

The cash surrender value for a life insurance with counter-insurance is limited by the sum of the premiums or contributions paid net of fees and taxes.

The IUs carrying out life insurance operations may surrender the annuities relating to the contracts which have been taken out with them, under the conditions laid down by decree, on CSBF proposal

Subsection 12. Death of the insured person

Article 57. In the event of the insured person's death, the IU has a period of one (1) month from the receipt of the documents provided for in the contract to pay the guaranteed capital.

After this period, the unpaid sums shall automatically bear interest at twice the legal rate from the date on which these sums became due until full payment.

Subsection 13. Murder of the insured person

Article 58. The insurance contract shall cease to have effect in respect of the beneficiary who has been convicted by a final decision as a perpetrator or accomplice to the murder of the insured.

If the beneficiary has been convicted of attempted murder of the insured, the policyholder has the right to revoke the allocation of the insurance benefit to the beneficiary who committed the attempt, even if the latter had already accepted the benefit of the stipulation made in his favour. This revocation becomes compulsory if the insured requests it by any means which leaves a written record.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Subsection 14. The insured person's age mistake

Article 59. A mistake as to the age of the insured shall only make the insurance null if his real age is outside the limits set for entering into contracts by the IU's tariffs.

In any other case, if, as a result of a mistake as to the insured's age, the premium or contribution paid is lower than that which should have been paid, the capital or annuity guaranteed is reduced in proportion to the premium or contribution received and that which would have corresponded to the insured's real age.

If, on the contrary, as a result of a mistake as to the insured person's age, a higher premium or contribution than that which should have been paid has been paid, the IU shall be required to refund the part of the premium or contribution which it has received in excess, without interest.

Subsection 15. Payment of insured sums

Article 60. Where the IU has not been aware of the designation of another beneficiary or the acceptance of another beneficiary or the revocation of a designation, the payment of the guaranteed capital or annuity to the person who would have been entitled to it without such designation, acceptance or revocation shall be discharged for the IU in good faith.

In the event of omission or misrepresentation, the IU shall pay to the policyholder or, in the event of the insured person's death, to the beneficiary the insured sums in accordance with the conditions laid down by decree, on CSBF proposal.

In the event of the IU judicial liquidation, the debt obligation of each of the beneficiaries of the current contracts shall be determined on the day of the judgment declaring the judicial liquidation in accordance with the conditions laid down by decree, on CSBF proposal.

Subsection 16. Insured persons' participation in profits

Article 61. The IUs must ensure that their insured participate in the technical and financial profits made by the IUs under these life insurance contracts.

The minimum amount of this contribution is determined globally for individual and group contracts of all kinds taken out on the territory of the Republic of Madagascar, with

the exception of group contracts in case of death.

Variable capital or unit-linked contracts involving investment in the financial and real estate markets shall not be subject to the provisions of this Article.

The terms of application of the first paragraph above shall be laid down by decree, on CSBF proposal.

Subsection 17. Loss of a contract

Article 62. Any person who claims to have lost, destroyed or stolen a life insurance or capitalisation contract shall report this to the IU by any means that leaves a written record. The IU shall acknowledge receipt in the same form and shall issue, on the insured's simple request, a duplicate within eight (8) working days of receipt of the request, which shall have the same effect as the original contract.

The declaration referred to in the preceding paragraph shall constitute opposition to the payment of the capital and all accessories.

In case of presentation of the opposed contract to the IU, it shall seize it and keep it until the ownership of the title has been decided by a court decision or until the opposition has been lifted.

A receipt of the seized contract shall be issued to the third party holder if it proves its identity and domicile. Failing such evidence, the contract shall be returned to the opposing party without formality.

CHAPTER 2. NON-LIFE BRANCH

Section 1. Non-marine damage insurance

Subsection 1. Common rules

1. Compensation principle

Article 63. Property insurance is an indemnity contract. The compensation payable by the IU to the insured cannot exceed the value of the insured item at the time of the loss, except where the insurance is an index insurance contract provided for in Article 12 of this Law.

It may be stipulated that the insured must remain his own insurer for a certain sum or proportion, or that he must bear a pre-determined deduction from the compensation for the loss.

No surrender of the insured items may be made by the insured unless otherwise agreed.

Any person with an interest in the preservation of an item may have it insured. Any direct or indirect interest in the non-occurrence of a risk may be covered by insurance.

The IU is liable for losses and damages caused by persons for whom the insured

is civilly liable under the terms defined in the contract.

Unless otherwise agreed, the IU shall not be liable for waste, deterioration, reduction, loss or shrinkage of use of the insured item due to its inherent vice or obsolescence.

2. Overinsurance

Article 64. Where an insurance contract has been entered into for a sum greater than the value of the insured item, if there has been fraud or deceit on the part of one of the parties, the other party may request that the contract be declared null and may also claim damages.

If there has been no fraud or deceit, the contract is valid, but only up to the actual value of the insured items and the IU is not entitled to premiums or contributions for the excess, except where the insurance is an index insurance contract provided for in Article 12 of this Law.

Only matured premiums or contributions as well as those of the current year for which premiums or contributions are in arrears remain definitively acquired by the IU.

3. Cumulative insurance

Article 65. A person who is insured with several IUs under several contracts, for the same interest, against the same risk, shall immediately inform each IU concerned. The insured must make the name of the IU with which another insurance policy has been taken out known and indicate the insured sum.

Where several insurances against the same risk are contracted in a fraudulent or deceitful way, the penalties provided for in Article 434 of this Law shall apply.

When they are contracted without fraud, each of them shall produce its effects to the extent of the contract guarantees and in compliance with the provisions of Article 63 of the present Law, whatever the date on which the insurance was taken out. Each IU shall pay the damages in proportion to its commitments except where the insurance is an index insurance contract provided for in Article 12 of this Law.

4. Underinsurance

Article 66. If the estimates show that the value of the insured item exceeds the insured sum on the day of the loss, the insured shall be deemed to remain his own insurer for the excess, and shall consequently bear a proportionate share of the loss, unless otherwise agreed.

5. Exclusions

Article 67. The IU may exclude from its cover losses, lootings or damages caused by any of the following events:

1. a foreign war, an invasion, an act of an enemy foreign power, hostilities, whether war has been declared or not;

2. a civil war;
3. a strike, riot or civil commotion;
4. an act of vandalism, sabotage or terrorism as defined by the regulations in force;
5. a power takeover by armed forces or usurpers or a malicious act by a group of persons or persons acting on behalf of or at the instigation of any political organisation;
6. a conspiracy, a confiscation, a requisition in fact or in law, a destruction or damage caused by order of an existing government de facto or de jure or of any other public authority whatsoever;
7. a final or provisional expropriation as a result of confiscation, requisition ordered by any public authority;
8. an insurrection, mutiny and/or military putsch, rebellion, revolution, power takeover by militaries or usurpers, proclamation of martial law or a state of siege and any event or circumstance leading to the proclamation or maintenance of martial law or a state of siege.

It is up to the IU to prove that the damage resulted from one of the events mentioned in the previous paragraph.

6. Subrogation of the IU

Article 68. The IU which has paid the insurance compensation is subrogated, up to the amount of this compensation, to the rights and actions of the insured against third parties who, by their act, have caused the damage which gave rise to the IU's payment.

The IU may be relieved in whole or in part of its liability towards the insured, when subrogation can no longer take place in favour of the IU due to the insured.

Notwithstanding the aforementioned provisions, the IU shall have no recourse against children, descendants, ascendants, relatives in the direct line, attendants, employees, workers or domestic servants, and generally any person normally living in the insured's home, except in the case of malice committed by one of these persons.

7. Creditors' rights to insurance compensation

Article 69. Compensation due by an IU following a damage shall be allocated, without the need for express delegation, to the preferential or mortgage creditors, according to their classification.

However, payments made in good faith to the insured before the stop payment shall be valid.

The same applies to compensation due in the event of damage by the tenant or by the neighbour who is liable for the fire, unless he proves that the fire occurred as a result of unforeseeable circumstances or force majeure, or as a result of a construction defect, or that the fire was communicated by a neighbouring house.

In the case of rental risk insurance or neighbour's recourse, the IU may not pay to anyone other than the rented item's owner, the neighbour or the third party subrogated to their rights, the whole or part of the sum due, as long as the said owners, neighbours or

third parties subrogated to their rights have not been paid for the consequences of the loss, up to the amount of that sum.

Subsection 2. Fire insurance

Article 70. The fire insurer is liable for all material damages caused by conflagration, flashover or live combustion. However, it shall not be liable, unless otherwise agreed, for damage caused solely by the action of heat or by direct and immediate contact with fire or an incandescent substance if there has been no fire or the beginning of a fire likely to degenerate into a real fire.

Material damage resulting directly from the fire or the fire break out shall be borne solely by the IU, unless otherwise agreed, even if the damage is caused by lightning. The IU may arrange for an expert's report.

Material damages to objects covered by the insurance as a result of rescue and relief measures are deemed to be material and direct damages.

The IU is liable for the loss or disappearance of the insured items that occurred during the fire, unless it proves that this loss or disappearance is the result of a theft.

The IU is not liable for losses or deterioration of the insured item caused by inherent vice. However, it shall cover fire damage resulting from such defect, unless such defect is justified in claiming the nullity of the insurance contract.

The IU covers the consequences of fires regardless of their causes. It cannot validly exempt itself from fires caused by natural disasters such as quakes, volcanic eruptions, earthquakes, storms, hurricanes or cyclones.

The IU may, however, exclude from its cover the consequences of events such as:

- foreign or civil war;
- strikes, riots and civil commotion;
- nuclear damages caused by weapons or devices intended to explode by modification to the structure of the atom nucleus or by any nuclear fuel, radioactive product or waste or by any other source of ionising radiation and for which a nuclear installation operator is liable.

In addition to the "Fire and Transactional Losses against Fire" cover, the IU may cover insured property against natural disasters, in particular damage caused by wind, including storms, hurricanes and cyclones.

Subsection 3. Public liability insurance

Article 71. The IU is liable for losses and damages caused by persons for whom the insured is civilly liable under the conditions set out in the contract. It is only liable if, following the harmful event provided for in the contract, an amicable or legal claim is made against the insured by the injured third party.

No forfeiture due to the insured's failure to fulfil his obligations after the loss shall be enforceable against third party beneficiaries. However, the IU retains its right of appeal

against the defaulting insured.

Liability insurance contracts should not contain any clause prohibiting the insured from calling its IU into question or calling it as guarantor in the event of a claim settlement.

The IU may stipulate that any acknowledgements of liability or transactions in which it was not involved cannot be invoked against it. The avowal of a fact materiality cannot be equated with an acknowledgement of liability.

The IU cannot pay to another person than the injured third party or his rightful claimants the whole or part of the sum due by it, to the extent of the cover provided for in the contract, as long as the injured third party has not been paid the pecuniary consequences of the harmful event which led to the responsibilities of the insured.

The expenses resulting from any liability actions against the insured shall be borne by the IU, unless otherwise agreed.

Subsection 4. Agricultural risks insurance

Article 72. Agricultural risks are those related to cultivation, livestock farming and fishing.

The following in particular shall be deemed to be agricultural risks:

1. the risks to which natural or legal persons who are exclusively or mainly engaged in an agricultural occupation and their property are exposed;
2. the risks to which the staff members employed by such natural or legal persons and their agricultural property are exposed;
3. the risks to which the family members of the aforementioned natural persons and their agricultural property are exposed, when living with them on their holding.

Section 2. Marine, river and air damage insurance

Sous-section 1. Generality

1. Definition

Article 73. The purpose of a marine, river or air insurance contract is to cover risks relating to maritime, river or lake navigation and air transactions.

However, insurance contracts whose purpose is to cover risks relating to pleasure boating shall be governed by the provisions of Articles 63 to 71 of this Law.

Any legitimate interest, including expected profit, may be the subject of insurance.

No one may claim the benefit of insurance unless he has suffered loss.

The insurance shall have no effect where the risks have not begun within two (2) months of the parties' undertaking or the date set for their assumption.

This provision is applicable to subscription policies only for the first supply.

2. Risk statement

Article 74. Any omission or misrepresentation on the part of the insured which materially diminishes the opinion of the IU as to the risk, whether it has affected or not the damage or loss of the insured item, shall invalidate the insurance at the IU request.

However, if the insured person provides proof of good faith, the IU shall be liable for the risk in proportion to the premium or contribution received in relation to the premium or contribution it should have received, unless it establishes that it would not have covered the risks if it had known about them.

The premium or contribution shall remain forfeited to the IU in the event of fraud by the insured.

3. Worsening of the risk

Article 75. Any change in the course of the contract, either in what was agreed upon at the time of its start or in the insured item, which results in a significant increase in risk, shall entail the insurance termination if it has not been notified to the IU within the time limit set by decree, on CSBF proposal, unless the latter proves good faith. In this case, the provisions of paragraph 2 of the previous Article shall apply.

If this aggravation is not the insured person's fault, the insurance shall continue, subject to an increase in the premium or contribution corresponding to the aggravation that has occurred.

If the aggravation is the insured person's fault, the IU may:

- either terminate the contract from the time it becomes aware of the aggravation, the premium or contribution being retained,
- or demand an increase in the premium or contribution equivalent to the aggravation that has occurred.

4. Insurance taken out the damage

Article 76. Any insurance taken out after the damage or after the arrival of the insured items or the carrier vessel, is null, if the news about it was known before entering into the contract at the place where it was signed or where the insured or the IU was located.

Insurance on good or bad news is null if it is established that prior to the entry into the contract, the insured had personal knowledge of the loss or of the arrival of the insured items.

5. Overinsurance

Article 77. If the IU establishes that there has been fraud from the insured or his agent, the insurance taken out for a sum greater than the actual value of the insured item shall be null and the premium or contribution shall be forfeited.

The same applies if the insured value is an agreed value.

In the absence of fraud, the contract is valid up to the actual value of the insured items and, if it has been agreed, for the whole sum insured.

6. Cumulative insurances

Article 78. Cumulative insurances for a total amount exceeding the value of the insured time are null if they have been taken out with fraud intention.

Cumulative insurances taken out without fraud for a total sum exceeding the value of the insured item are valid only if the insured brings them to the attention of the IU from whom he claims payment. Each of these insurances is effective in proportion to the sum to which it applies, up to the full value of the insured item.

7. Underinsurance

Article 79. Where the insured sum is lower than the actual value of the insured items, except in the case of agreed value, the insured remains his own insurer for the difference.

8. Account-based insurance

Article 80. Insurance may be taken out either on behalf of the policyholder or on behalf of another specified person, or on behalf of whom it may concern.

The declaration that the insurance is taken out on behalf of whom it may concern is valid both as insurance for the benefit of the policyholder and as a stipulation for another person for the benefit of the beneficiary of the said clause.

9. Insured events

Article 81. The IU is liable for material damages caused to the insured items by any fortune of the sea or by an event of force majeure.

The IU is also liable for:

- the contribution of the insured items to the general average, unless this is caused by a risk excluded by the insurance;
- the costs incurred as a result of a covered risk in order to preserve the insured item from material damage or to limit the damage. The said costs are part of the total compensation, which may not exceed the insured value.

Article 82. The "Free of average" clause relieves the IU from all general or particular averages defined in Article 4 of the present Law, except in the cases which give rise to the surrender.

The "Free of particular average except" clause relieves the IU from all particular averages, except those caused by one of the events listed in the clause and the cases

which give rise to the surrender.

10. IU Responsibility

Article 83. The IU is liable for material damages to the insured items caused by the fault of the insured or his employees on land, unless it is proved that the damages are due to a lack of reasonable care on the part of the insured to protect the items from the risks that have occurred.

Notwithstanding any clauses to the contrary, the IU shall not be liable for intentional or gross negligence on the part of the insured.

The IU is liable for damage caused by the act or fault of the captain or the crew. However, the hull insurance does not cover damage caused by the captain's intentional fault.

The IU is liable for damage even in the event of a forced change of route, voyage or ship, or in the event of a change decided by the captain outside the control of the shipowner and the insured.

In the event of a voluntary change of voyage or route, the IU shall remain liable for damages if it can be proved that it occurred on the agreed part of the route.

11. Uninsured risks

Article 84. Unless otherwise agreed, the IU does not cover the risks of:

1. civil or foreign war, mines or any devices of war;
2. piracy;
3. capture, seizure or detention by any government or authority;
4. riots, civil commotion, strikes by the employer or employees, acts of sabotage or terrorism as defined by the applicable regulations;
5. damage caused by the insured item to other property or persons;
6. losses due to the direct or indirect effects of an explosion, release of heat, irradiation resulting from the transmutation of atomic nuclei or from radioactivity, as well as losses due to the effects of radiation caused by the artificial acceleration of particles.

Where it is not possible to establish whether the loss or damage is caused by a war risk or a sea risk, it shall be deemed to be the result of a marine incident.

Article 85. The IU shall not be liable for:

1. material damages or losses resulting from the inherent vice of the insured item, except for the vessel latent defect;
2. material damages or losses resulting from fines, confiscation, sequestration, requisition, sanitary or disinfection measures or as a result of violations of blockades, smuggling, prohibited or clandestine trade;

3. damages or other compensation for any seizures or securities given to release the seized objects;
4. prejudices which do not constitute material damages or losses directly affecting the insured item, such as unemployment, delay.

12. Obligations of the insured

Payment of the premium or contribution

Article 86. The insured shall, for subscription policies:

1. pay the premium or contribution and the fees at the agreed place and time;
2. take reasonable care of all matters relating to the vessel or the goods;
3. declare accurately, at the time of entering into the contract, all circumstances known to him which are such as to enable the IU to assess the risk he is taking on;
4. declare to the IU, insofar as he is aware of them, any increases in risk occurring during the course of the contract.

If the IU proves that it was not aware of this aggravation, it may claim the provisions of Article 21, paragraphs 2 and 3 of this Law.

Article 87. In the case of subscription policies, failure to pay a premium or contribution entitles the IU either to suspend the insurance or to request its cancellation.

Suspension or cancellation shall not take effect until eight (8) days after a formal notice to pay has been sent to the insured at his last address known to the IU by any means which leaves a written record with acknowledgement of receipt.

Suspension or termination for failure to pay a premium or contribution shall have no effect in respect to third parties in good faith who are beneficiaries of the insurance pursuant to a transfer prior to the notification of the suspension or termination.

In the event of a disaster, the IU may, by means of an express clause in the endorsement to the insurance contract, set off against these beneficiaries, up to the same amount, the premium or contribution compensation relating to the insurance from which they claim the benefit.

In the event of judicial reorganisation or liquidation of the insured, the IU may, if the formal notice has not been followed by payment, terminate the current insurance policy, but the termination shall have no effect in respect of a third party with good faith, beneficiary of the insurance pursuant to a transfer made prior to any disaster and notification of termination.

In the event of authorisation withdrawal, reorganisation or liquidation of the IU, the insured has the same right to terminate the contract.

Rescue of insured items

Article 88. The insured must contribute to the rescue of the insured items and take all measures to preserve his rights against the responsible third parties. He shall be liable

to the IU for the damage caused by his failure to perform this obligation resulting from his fault or negligence.

13. Settlement of compensation

Principle

Article 89. Damage and loss shall be settled in the form of damage, except that the insured may opt to surrender the goods in the cases determined by the law or the agreement.

The IU cannot be compelled to repair or replace the insured items.

The contribution to general average, whether provisional or permanent, as well as the costs of assistance and rescue shall be reimbursed by the IU in proportion to the insured value less, where applicable, the particular damage for which it is responsible.

The surrender shall be notified to the IU by any means that leaves a written record or by extrajudicial act. This transaction transfers to the IU the rights of the insured person on the insured items, with the obligation for the IU to pay the full amount insured. The effects of this transfer date back to the moment when the insured notifies the IU of his intention to surrender.

The IU may, without prejudice to the payment of the insured sum, refuse the transfer of ownership.

The abandonment must take place within three (3) months of the event giving rise to it, or of the expiry of the period allowing for it.

When notifying the abandonment, the insured shall inform the IU of all insurance policies he has taken out or of which he is aware.

Forfeiture

Article 90. An insured who has made an inaccurate statement of the loss in bad faith shall forfeit the insurance benefit.

Rights of the IU

Article 91. The IU that has paid the insurance compensation acquires, up to the amount of its payment, all the rights of the insured arising from the damage which gave rise to the guarantee.

Prescription

Article 92. Actions arising from the insurance contract shall become void after two (2) years. The limitation period shall run against minors and other incapacitated persons.

The limitation period for actions arising from the insurance contract shall run:

1. regarding the action for payment of the premium or contribution, from the due date;
2. regarding the action for damage, from the date of the event giving rise to the action;

in respect of goods, from the date of arrival of the ship or other transport vehicle, or, failing that, from the date on which it should have arrived or, if the event is later, from the date of that event;

3. in the case of an action for abandonment, from the date of the event giving rise to the right of it or, if a time-limit is fixed for giving rise to the action, from the date on which that time-limit expires;
4. where the insured's action is based on general average contribution, compensation for assistance or recourse by a third party, from the date of the legal action against the insured or the payment date.

In the case of a recovery action for any sum paid under the insurance contract, the period shall run from the date of the undue payment.

Subsection 2. Special rules for marine insurance

1. Hull insurance

Guarantee

Article 93. The hull insurance guarantees the material losses and damages affecting the vessel and its insured annexes and resulting from all navigation accidents, events of force majeure or sea fortunes, except for formal and limited exclusions provided for in the insurance contract.

Travel or time-based insurance

Article 94. The vessel insurance shall be taken out either for a single voyage, or for several consecutive voyages, or for a specified period.

Travel insurance

Article 95. In the case of travel insurance, the guarantee runs from the beginning of loading until the end of unloading and at the latest fifteen (15) days after the arrival of the vessel at destination.

In case of a ballast voyage, the guarantee runs from the moment the ship starts to the moment the ship is moored upon arrival.

Time-based insurance

Article 96. In time insurance, the risks of the first and the last day are covered by the insurance.

The days are counted from zero to twenty-four (24) hours according to the time of the country where the insurance policy was issued.

Inherent vice

Article 97. The IU does not guarantee damage and loss resulting from an inherent vice of the vessel, except if it is a latent defect.

The IU does not guarantee loss or damage when the vessel undertakes the voyage in a condition that makes it unseaworthy or insufficiently armed or equipped.

Similarly, the IU does not cover loss or damage resulting from normal wear and tear or obsolescence of the vessel.

Agreed value

Article 98. Where the insured value of the vessel is an agreed value or insurance value determined by the contract, the parties shall mutually refrain from any other estimate.

Safe arrival insurance

Article 99. Safe arrival insurance may be taken out, on pain of nullity, only with the agreement of the ship's IU.

When a sum is insured in this respect, the justification of the insurable interest results from the acceptance of the sum so guaranteed.

The IU is only liable in the event of total loss or abandonment of the vessel as a result of a risk covered by the insurance policy. It has no right to the abandoned goods.

Guarantee of the shipowner's liability

Article 100. With the exception of damages to persons, the IU is liable for the reimbursement of damages of any kind for which the insured would be liable on the recourse of third parties in the event of collision by the insured vessel or the bumping of this vessel against a building, fixed, mobile or floating body.

IU's right on the premium or contribution

Article 101. In the case of insurance on a single voyage or for several consecutive voyages, the entire premium or contribution is acquired by the IU as soon as the risks have begun to run.

In time insurance, the premium or contribution stipulated for the whole duration of the guarantee is acquired in case of total loss or abandonment at the expense of the IU.

If the total loss or the case of abandonment is not at the expense of the IU, the premium or contribution shall be acquired on the basis of the time that has elapsed until the total loss or at the notification of abandonment.

Average settlement

Article 102. In average settlement, the IU shall reimburse only the cost of replacements and repairs recognised as necessary to restore the vessel to a seaworthy condition, excluding any other compensation for depreciation or unemployment or any other cause whatsoever.

Guarantee per event

Article 103. Regardless of the number of events occurring during the term of the insurance policy, the insured is guaranteed for each event up to the amount of the insured capital, unless the IU has the right to request an additional premium or contribution after each event.

Abandonment

Article 104. The vessel may be abandoned in the following cases:

1. total loss;
2. repairs amounting to three quarters (3/4) of the agreed value;
3. impossibility of repair;
4. no news for over three (3) months; the loss is deemed to have occurred on the date of the latest news.

Alienation or bareboat charter

Article 105. In case of alienation or bareboat chartering of the vessel, the insurance shall continue as of right for the benefit of the new owner or charterer, who shall inform the IU and fulfil all the obligations which the insured was bound to the IU under the contract, on condition that the latter informs the IU and fulfils all the obligations the insured had towards the IU under the contract.

The IU may, however, terminate the contract within the month of the day on which it receives notification of the alienation or charter. Such termination shall take effect only fifteen (15) days after its notification.

The alienator or charterer shall remain liable for payment of premiums or contributions due prior to the alienation or charter.

The alienation of the majority of the shares in jointly owned vessels shall entail the application of the provisions of this Article.

Special cases

Article 106. The provisions of this section are also applicable to insurance contracts concerning the ship which is insured only for the duration of its stay in harbours, roadsteads or other places, whether afloat or in dry dock.

They shall apply to ships under construction.

2. Marine cargo insurance

Guarantee

Article 107. Marine cargo insurance defined in Article 4 of this Law guarantees the

material losses and damages caused to the goods by all navigation accidents or events of force majeure except for formal and limited exclusions provided for in the insurance contract.

Non-guaranteed damage

Article 108. The IU is not liable for:

damage or loss caused by the consignor or the consignee, as such, through wilful or inexcusable fault;

damage resulting from the inherent vice of the goods, resulting from their internal deterioration, decay, leakage, as well as the absence or defect of packaging, the road shrinkage or from the rodents, worms and vermin.

Categories of insurance policies

Article 109. Goods shall be insured either by a policy with effect only for a single voyage, or by a so-called floating or subscription policy, fed by the declarations of successive shipments taken out by the insured.

Continuity of guarantees

Article 110. Goods are insured without interruption, wherever they may be, within the limits of the voyage defined by the insurance policy or the declaration of supply.

Combined transports

Article 111. Where part of the voyage is made by land, water or air, the rules of marine insurance shall apply to the whole voyage.

Abandonment

Article 112. The abandonment of marine cargoes may be made in cases where the goods are:

- totally lost;
- lost or damaged up to three quarters (3/4) of their value;
- sold en route due to material damage to the insured items as a result of a covered risk.

The abandonment may also take place in the following cases:

- the unseaworthiness of the vessel and if the shipment of the goods by any means of transport has not been able to start within a period of three (3) months;
- no news from the vessel for more than three (3) months.

Sanction of the insured's obligations

Article 113. In the event that the insured who has taken out a subscription policy

has not complied with the contractual obligations to declare all his shipments, the contract may be cancelled without delay at the request of the IU, which shall also be entitled to the premiums or contributions corresponding to the undeclared shipments.

If the insured is in bad faith, the IU may exercise the right of recovery on payments made by him for claims relating to shipments subsequent to the insured's first intentional omission.

3. Liability insurance

Subsidiarity

Article 114. The liability insurance for the purpose of repairing damage caused to third parties by the vessel and which is guaranteed under the terms of Article 115 below shall only be effective in the event of insufficiency of the sum insured by the hull policy.

Guarantee per event

Article 115. Regardless of the number of events occurred during the term of the liability insurance, the sum subscribed by each IU shall constitute the limit of its liability per event.

Compensation of the injured party

Article 116. . The IU cannot pay to another party than the injured party the whole or part of the sum due, as long as the latter has not been reimbursed up to the amount of the said sum for the financial consequences of the harmful event which caused the insured's liability.

TITLE V: RULES RELATING TO COMPULSORY INSURANCE CONTRACTS CHAPTER 1. PUBLIC LIABILITY INSURANCE FOR LAND MOTOR VEHICLES

Section 1. Civil liability of land motor vehicles' owners

Subsection 1. Persons and vehicles concerned

Article 117. Any natural person or any legal entity other than the State, whose civil liability may be incurred as a result of damage suffered by third parties resulting from injury to persons or property and caused by a land motor vehicle as well as its trailers or semi-trailers shall, in order to operate the said vehicles, be covered by insurance guaranteeing civil liability under the conditions laid down by this Law.

For the purposes of this Article, "vehicle" refers to any land vehicle with an engine intended for use on the road which can be driven by mechanical or electrical power without being connected to a railway, and any trailer, even if it not coupled.

This obligation applies in particular to:

1. passenger cars and commercial vehicles;
2. lorries;

3. motorcycles;
4. scooters;
5. tractors, construction machine;
6. caravans and trailers.

Insurance contracts covering the liability referred to in this Article shall also cover the civil liability of any person having custody or driving, even unauthorised, of the vehicle, with the exception of professionals in the field of motor vehicle repair, sale and inspection, as well as the civil liability of the vehicle passengers covered by the insurance for damage caused to third parties other than the passengers

The contracts shall cover, in addition to the civil liability of the persons mentioned in paragraphs 1 and 4 above, that of the policyholder and the vehicle's owner.

The IU is subrogated to the rights of the compensation creditor against the person responsible for the accident when the custody or the driving of the vehicle was obtained without the owner's knowledge or against his will.

The driver's family members, the insured, the policyholder and the vehicle's owner shall be considered as third parties within the meaning of paragraph 4 of this Article, only in respect of personal injury suffered in the course of an accident involving one or more motor vehicles.

Subsection 2. Trailers

Article 118. For the purposes of this Law, the term trailer or semi-trailer means:

- land vehicles constructed to be coupled to a land motor vehicle and intended for the transport of persons, animals and goods;
- any land device coupled to a land motor vehicle.

Except in case of omission or intentional misrepresentation, the attachment of small or semi-trailers to a land motor vehicle shall constitute an aggravation of the risk covered by the contract guaranteeing that vehicle.

Section 2. Scope of the insurance obligation

Subsection 1. Territorial scope and events covered

Article 119. The insurance provided for in Article 117 of this Law must include a guarantee of civil liability covering the entire territory of the Republic of Madagascar.

Article 120. The obligation to insure applies to the compensation of personal injury or property damage resulting from:

- the accidents, fires or explosions caused by the vehicle, the accessories and products used in its operation, the objects and substances it carries;
- the fall of these accessories, objects, substances or products.

Subsection 2. Derogation from the insurance obligation

Article 121. By way of derogation from the foregoing provisions, the insurance obligation shall not apply to compensation for:

1. damages suffered by:
 - the driver responsible for the accident;
 - the employee(s) during their service, or the insured's employees, responsible for the damage;
2. damages or aggravation of damage caused by weapons or devices intended to explode by modification of the structure of the atomic nucleus or by any nuclear fuel, radioactive product or waste or by any other source of ionising radiation;
3. damages to buildings, things or animals rented or entrusted to the driver in any capacity whatsoever;
4. damages to goods and articles transported, except for damage to the clothing of the persons transported, where such damage is incidental to a physical accident;
5. consequential damages resulting from a different use of the vehicle as defined in the general conditions of the contract;
6. damages resulting from the vehicle loading and unloading;
7. damages resulting from the requisition or impounding of the vehicle;
8. damages caused by a driver who does not hold a driving licence;
9. damages caused and suffered by a vehicle which has been alienated without taking out an insurance on behalf of the owner as provided for in Article 129, paragraph 3 of this Law;
10. damages suffered by the thief of the insured vehicle or by his accomplices, even if they are transported in the vehicle.

Subsection 3. Forfeiture

Article 122. The insured whose vehicle:

1. caused damages to the persons conveyed , when the transport is not carried out under the sufficient safe conditions laid down by the regulations in force;
2. was driven by a person who is not of the required age or does not have the valid competence certificate required by the regulations in force for the category to which the vehicle belongs, except in the case of theft, violence or use of the vehicle without the insured's knowledge. However, the guarantee shall be acquired when the certificate declared to the IU at the time of subscription or contract renewal is not valid for reasons relating to the place or duration of residence of its holder or when the restrictive conditions of use, other than those relating to the categories of vehicles, indicated on it have not been respected;
3. has not been subject in due time to the periodic checks required by the public regulations in force, carried out by the competent departments and recognised by them as being in good working order at the time of the accident;
4. was driven by a person who was drunk or under the influence of alcohol or other narcotics drugs, psychotropic substances and precursors.

The IU may take recourse action against the insured for reimbursement of all sums paid to third parties as a result of an accident.

Subsection 4. Exclusions

Article 123. Clauses in contracts whose purpose is to exclude from cover the liability incurred by the insured as a result of:

1. damages caused by the vehicle when transporting ionising radiation sources intended for use in a nuclear installation, where the said sources would have caused or aggravated the disaster;
2. damages suffered by persons transported in return for payment, except in the case of contracts taken out by passenger transporters for vehicles used in the exercise of their profession;
3. damages caused by the vehicle when transporting flammable, explosive, corrosive or oxidising substances and in the course of which the said substances have caused or aggravated the accident. However, non-insurance may not be invoked in the case of the transport of oils, mineral spirits or similar products, not exceeding the quantity set by decree, on CSBF proposal;
4. damages occurring in the course of events, races, competitions or their trials, subject to the regulations in force to prior authorisation by the public authorities. Any person taking part in one of these events, races, competitions or trials as a competitor or organiser shall be deemed to have complied with the provisions of this chapter only if his liability is guaranteed by insurance under the conditions required by the relevant regulations.

It may be stipulated in the insurance contract that the insured person shall retain responsibility for part of the compensation due to the injured party. The amount of this deductible may not exceed the amount fixed by decree, on CSBF proposal.

Subsection 5. Exceptions not enforceable against third parties

Article 124. The following shall not be enforceable against victims or their rightful claimants:

1. relief referred to in the second paragraph of Article 123 above;
2. forfeitures, with the exception of the regular suspension of the guarantee for non-payment of the premium or contribution, failure to possess a driving licence and alienation of the vehicle without taking out insurance on behalf as provided for in Article 129, paragraph 3 of this Law;
3. reduction in the compensation;
4. exclusions from the guarantee provided for in the first paragraph of Article 123 above;
5. failure to comply with the safety rules laid down by the regulations in force.

In all the above cases, the IU shall pay the compensation on behalf of the liable party.

It may bring an action against the latter for reimbursement of all the sums it has thus paid.

Section 3. Control of the insurance obligation

Subsection 1. Insurance certificate

Article 125. Any driver of a vehicle referred to in Article 117 of this Law must, under the conditions set out in this section, be in a position to produce a physical or electronic document giving a presumption that the insurance obligation has been met.

This presumption results from the production, by the officials or agents responsible for recording offences against the traffic police, of the certificate, the terms for the drawing up and validity of which shall be laid down by decree, on CSBF proposal.

The insurance certificate, issued by the IU to the insured when the contract is taken out or renewed, shall be provided by the vehicle driver during any check. Failing this, proof shall be provided to the judicial authorities by any means.

Subsection 2. Probative value of the certificate

Article 126. The presumption that the insurance obligation has been met is established by the presentation of the insurance certificate for the period of validity mentioned on this document.

This insurance certificate does not imply an obligation of guarantee from the IU, which is only committed by the insurance contract itself.

Subsection 3. Theft or loss of a document

Article 127. In the event of loss or theft of the certificate, the IU shall issue a duplicate at the request of the insured person concerned, subject to the presentation of a declaration of loss issued by the competent authority.

Subsection 4. Preliminary objection

Article 128. If the civil court is seized of a serious dispute concerning the insurance existence or validity, the criminal court called upon to rule on the proceedings for breach of the obligation to take out insurance shall stay the proceedings until the dispute has been finally ruled on.

Section 4. Alienation of land motor vehicles

Article 129. In the event of the alienation of a land motor vehicle or its trailers or semi-trailers, the insurance contract shall be suspended as of right from midnight on the day following the alienation. It may be terminated by either party by a giving ten (10) days' notice.

The insured shall inform the IU, by any means that leaves a written record, of the date of alienation of a land motor vehicle, or its trailers or semi-trailers.

The insurance on behalf taken out by the purchaser may take place for a period not exceeding the statutory period of the transfer.

If the contract is not reinstated by agreement of the parties or if it is terminated by one of them, the termination shall take place as of right at the end of a period of six (6) months from the date of alienation. The IU shall be obliged to reimburse the pro rata share of the premium or contribution corresponding to the period from the date of such termination to the due date.

No provision may be made for the payment of compensation to the IU in the aforementioned cases of termination.

The provisions of this Article shall remain applicable in the event of insured's death.

Section 5. Pricing of public vehicle liability insurance

Article 130. The IUs are free to determine their rates for civil liability for land motor vehicles in accordance with Article 307 of this Law. These must be at least equal to a minimum tariff, whose criteria are laid down by CSBF instruction.

Section 6. Compensation for victims of automobile traffic material accidents

Subsection 1. Enforceability of the driver or the victim's fault

Article 131. Misconduct on the part of the driver of the motor vehicle or the victim shall have the effect of limiting or excluding compensation for damage to property suffered by him or her.

Where the circumstances of a collision between two (2) or more vehicles do not make it possible to establish the responsibilities incurred, each of the drivers shall receive from the other driver(s) only half of the compensation for the material damage he has suffered.

When the driver of a land motor vehicle is not the owner, the fault of that driver can be invoked against the owner for the compensation of the damage caused by his vehicle. The owner has recourse against the driver.

Subsection 2. Unenforceability due to force majeure or by a third party /

Article 132. Victims, including drivers, may not claim force majeure or the act of a third party by the driver or keeper of a vehicle mentioned in Article 117 of this Law.

Subsection 3. Scale of responsibility

Article 133. A scale shall be established by decree, on CSBF proposal, to determine the respective responsibilities of the vehicles that caused the accident according to the circumstances of the accident.

CSBF shall cooperate with the Ministry of Finance, the Ministry of Justice, the

professional associations provided for in Articles 344 and 347 of this Law as well as any other relevant entity in determining the scale referred to in the preceding paragraph.

If the IU that guarantees civil liability and the victim or the rightful claimants do not reach an agreement on the application of the scale, the dispute may be referred to the judicial authority to be decided in accordance with the provisions of this Law.

Section 7. Compensation for victims of automobile traffic personal injury accidents

Subsection 1. Legal regime for compensation

Article 134. The provisions of this Law shall apply to all victims of an accident involving a land motor vehicle and its trailers or semi-trailers.

Victims of accidents, apart from the driver of motor land vehicles, shall be compensated for damages resulting from injuries to their person. The victim's fault shall have the effect of limiting or excluding compensation.

Supplies and equipment supplied on medical prescription shall give rise to compensation according to the same rules.

Article 135. Any person who proves that he has suffered a definite harm as a result of the serious injuries that reduced the direct victim's capacity or as a result the death of a victim may obtain compensation in accordance with the terms and conditions laid down by decree, on CSBF proposal.

Subsection 2. Offer of compensation

1. Presentation of the compensation offer

Deadline for submission of the compensation offer

Article 136. Irrespective of the claim that the victim may make, the IU which guarantees civil liability for a land motor vehicle is required to present an offer of compensation to the victim who has suffered personal injury within a maximum period of eight (8) months.

This period shall run from the time the report is obtained from the officers or agents of the judicial police who recorded the accident.

In the event of the victim's death, the offer shall be made to its rightful claimants.

The deadlines and terms and conditions for transmitting the report provided for in paragraph 2 of this Article, presenting the provisional or final offer of compensation are set by decree, on CSBF proposal.

In case of several vehicles involved in the same accident and if they are not insured by the same IU, the offer is made by the IU to which compensation is paid.

The compensation offer shall include all compensable elements of the accident,

including elements relating to material damage where these were not settled in advance.

Communication to the victim

Article 137. On the occasion of its first correspondence with the victim, the IU is required, on pain of relative nullity of any settlement that might take place, to give to the victim:

1. the name of the IU officer responsible for following up the accident file;
2. the consequences of a failure to reply or an incomplete reply;
3. a copy of the police investigation report;
4. the right to be assisted, at his own expense, by Counsel of his choice.

Cheques and other means of payment shall be made out exclusively in the name of the victim and/or the rightful claimants and/or his representative.

Medical examination

Article 138. In the event of a medical examination being carried out in order to offer compensation, the IU shall notify the victim within a period set by decree, on CSBF proposal of:

- the identity of the doctor, the purpose, date and place of the examination;
- his right to be assisted, at his own expense, by a doctor of his choice;
- the communication of the medical examination report.

2. Content of the offer

Article 139. The offer of compensation shall indicate in particular:

- the assessment of each count of harm and the sums due to the beneficiary, whose terms and conditions shall be laid down by decree, on CSBF proposal;
- the claims of each third-party payer together with a copy of the statements provided by the third-party payers;
- where appropriate, the reasons for the limitations or exclusions of compensation adopted by the IU.

In the event of exclusion of compensation, the IU shall not be obliged to provide the information provided for in the first two indents of this Article, in its notification.

If the victim or his rightful claimants have not notified the IU of the list of third-party payers, the payment made is in full discharge of liabilities and the third-party payers shall address their recourse to the victim or his rightful claimants who are the compensation beneficiaries.

3. Penalty for late offer

Article 140. Where the offer has not been made within the time limits provided for in Article 136 of this Law, the amount of compensation shall automatically bear interest at

twice the legal rate from the expiry of the aforementioned time limits until the day on which the offer becomes final, without prejudice to any damages which may result from the delay.

This penalty may be reduced or even cancelled by the judge due to circumstances not attributable to the IU, and in particular, when it does not have the victim's address despite the active searches undertaken.

4. Protection of minors and incapacitated persons

Article 141. The IU must:

1. submit to the living parents of the minor or incapacitated person or, in the absence of living parents, to the guardianship judge or the Family Council, competent to authorise it, as the case may be, any proposed transaction concerning a minor or an adult under tutorship;
2. inform the guardianship judge or the Family Council, at least fifteen (15) days in advance, of the payment of the first arrears of an annuity or any sum to be paid as compensation to the legal representative of the protected person.

A payment that has not been preceded by the required notice or an unauthorised transaction may be cancelled at the request of any interested party or the public prosecutor, with the exception of the IU.

Any clause whereby the legal representative guarantees the ratification of the transaction by the minor or the adult under tutorship is null.

5. Right of transaction denunciation

Principle

Article 142. The victim may, by any means that leaves a written record with acknowledgement of receipt, denounce the settlement offer on the grounds of non-compliance with this Law.

Any clause in the settlement offer stipulating that the victim waives his right of denunciation shall be null.

The above provisions shall be reproduced in bold and conspicuous character in the settlement offer and in the settlement on pain of relative nullity of the latter.

The detailed rules for the application of this Article shall be laid down by decree, on CSBF proposal.

Guarantee exception

Article 143. When the IU invokes a legal or contractual guarantee exception, it shall comply with the provisions of Articles 136 to 142 of this Law on whose behalf it will be owned.

The settlement reached may be challenged before the court by the party on whose

behalf it was made, without the amount of the sums awarded to the victim or his rightful claimants being called into question.

6. State vehicles

Article 144. The insurance obligation does not apply to the State. The State is its own insurer.

7. Referral to the courts

Article 145. If the IU that guarantees civil liability and the victim do not reach an agreement on compensation, the dispute may be referred to the competent court to be decided in accordance with the legal regime for compensation provided for in Article 134 of this Law.

Subsection 3. Recourse by third party payers

Article 146. The following compensatory benefits shall give rise to a right of recourse against the person liable for compensation:

1. In the event of death:
 - a) death grants paid by any social security organisations;
 - b) annuities and reversionary pensions paid by these organisations or by other debtors for the benefit of the surviving spouse as well as the children of the victim.
2. In the event of injury:
 - a) benefits paid by social security organisations in respect of medical treatment and rehabilitation costs and cash benefits for temporary or permanent incapacity;
 - b) wages and accessories to wages kept by the employer;
 - c) benefits of a compensatory nature paid by an IU under a sickness guarantee;
 - d) benefits provided by an IU under an advance on recourse contract.

The IU is required to ask the third-party payers to produce the credits, indicating the victim's surname, first names, address, professional activity and the address of his employer(s).

The third-party payers are required to communicate to the IU, within a period fixed by decree, on CSBF proposal, from the date of the IU's request, a statement of their credits, specifying the legislative, regulatory or contractual provisions by virtue of which this sum is owed to the victim, on pain of forfeiture of their rights against the IU and the author of the damage.

In the event that the request for the production of credits from the IU does not mention the consolidation of the victim's condition, the receivables produced by the third-party payers shall remain provisional.

The recourse mentioned in this Article shall be exercised by the count of prejudice only on the indemnities which compensate for prejudices which they have assumed, to the exclusion of prejudices of a personal nature.

Subsection 4. Prescription

Article 147. Actions for settlement with the IU, open to victims of an accident involving a land motor vehicle, shall become void after three (3) years from the date of the accident.

Subsection 5. Prejudices compensated

Article 148. The only prejudices which may be compensated for personal injuries suffered in an accident involving a land motor vehicle are the following:

1. in the event of injuries:
 - a) costs of material treatment incurred as a result of the accident;
 - b) temporary or permanent incapacity in the form of physiological injury or economic loss;
 - c) assistance of a third person;
 - d) physical suffering and cosmetic prejudice;
 - e) career prejudice;
2. in the event of death:
 - a) funeral expenses;
 - b) economic loss suffered by the deceased's rightful claimants;
 - c) moral damage to the deceased's rightful claimants;
 - d) where appropriate, the treatment charges before the victim's death.

Subsection 6. Compensation on behalf of others

Article 149. Should an accident involving only one vehicle occur, the procedure for offering compensation of this vehicle's owner civil liability falls to the IU depending on the capacity of the victim: person transported or third party circulating as a pedestrian, cyclist or rider within the limits of the contract.

When several vehicles are involved in the same accident with personal injury consequences, the compensation offer to the victims falls to the IU of the vehicle responsible;

At any time the IU, which considers that the responsibility of its insured is paramount, may claim the file management.

The IU acting on behalf of others is mandated to act as if it were its own interests. Any interest for delay incurred shall remain at its expense.

Payments made in accordance with the provisions of this Article shall not be contested.

The IU which has paid the sums due to the victim and to the third party payers is subrogated in the rights of the compensated persons up to the amount of the payments made.

The contribution of the different vehicles' IUs, after compensation of the victims by the authorised IU, is established, with respect to each of the victims, according to the share of responsibility falling to each driver.

The responsibilities are determined according to the scale provided for in the Traffic Regulations.

If it is not possible to decide on the extent of liabilities incurred, the total amount of damages compensated shall be divided equally between the liable IUs. In the event of default by one or more co-perpetrators, recourse actions will be governed by the civil liability ordinary law.

Article 150. In the event of recourse after payment on account, the sums claimed and due, which have not been reimbursed, shall bear interest at the legal rate from thirty (30) days following the date of the claim.

CHAPTER 2. CONSTRUCTION INSURANCE

Section 1. All-risk construction site insurance

Article 151. The architect, engineer, contractor and any natural or legal person who has entered into a contract for the hire of work or a contract for the provision of services other than a employment contract with the client shall be covered by an all-risk construction site insurance policy in respect of damages caused to third parties or to the work as a result of, or during work on the construction site, for the whole duration of the construction.

This guarantee is called "all-risk construction site".

Shall be applicable, the clauses in contracts whose purpose is to exclude from cover the liability incurred by the insured as a result of:

1. consequential damage resulting from soil characteristics, when the soil study was not carried out before the start of the work or when such damage results from failure to comply with the recommendations contained in the aforementioned study;
2. damage caused by a vehicle subject to the insurance obligation provided for by this Law, other than those:
 - resulting from the operation of tippers, cranes and other equipment with which the vehicle is equipped, when it is brought to a standstill to carry out work on the site;
 - caused by any vehicle specially constructed or adapted for use in construction work in connection with its use for carrying out such work.

Is defined as third party as referred to in this Article, any person other than:

1. the project manager;
2. the engineer, the architect, the contractor and any person involved on the work site who has entered into a contract for the hire of work or a contract for the provision of services other than an employment contract with the client, as well as the subcontractors involved on the work site;
3. the legal representatives of the legal persons referred to in 1° and 2° of this paragraph;

4. during their service, employees or agents of the persons referred to in 1° and 2° of this paragraph for personal injury.

Any all-risk construction site insurance contract shall be taken out for a period corresponding to the duration of the construction.

In the event of suspension or termination of the insurance contract referred to in the first paragraph of this Article, the IU is required to notify the competent planning Authority by any means that leaves a written record within thirty (30) days from the date of the said suspension or termination in order to ensure that the obligation provided for in this Article is met.

The obligation of all-risk construction insurance does not apply to the State. The State is its own insurer.

Section 2. Decennial civil liability insurance

Subsection 1. Persons subject to the obligation of decennial civil liability insurance

Article 152. The architect, engineer, contractor or any natural or legal person having entered into a contract other than an employment contract with the client shall be liable when, within ten (10) years from the completion of the building or other structure whose works they have supervised or executed, the structure collapses, in whole or in part, or presents an obvious danger of collapse, due to a defect in the materials, a construction defect or a soil defect.

An architect who has not directed the work is only liable for the defects in his plan.

Any natural or legal person whose ten-year civil liability may be engaged pursuant to paragraph 1 above, shall be covered by an insurance contract guaranteeing such liability.

Subsection 2. Exclusions

Article 153. Are applicable, the clauses in contracts whose purpose is to exclude from cover the liability incurred by the insured as a result of:

- damages and losses caused by foreign war, civil war, riots, civil commotion, acts of sabotage or terrorism as defined by the regulations in force;
- damages and losses resulting from failure to comply with technical reservations issued by the competent planning Authority and duly notified to the client, where such reservations have not been lifted.

The insurance contract may stipulate further exclusions of cover, after authorisation by the competent planning Authority.

Subsection 3. Guarantee ceiling

Article 154. The ten-year civil liability insurance contract may include a guarantee ceiling. The amount of the said ceiling shall be set by regulation according to, in particular, the amount of the construction work, the nature of the work or its intended purpose.

Subsection 4. Guarantee duration

Article 155. Notwithstanding any stipulation to the contrary in the contract, any ten-year civil liability insurance contract shall be deemed to include a clause ensuring the continuation of the guarantee for the same duration.

Subsection 5. Presentation of the insurance certificate

Article 156. Any application for a permit to inhabit or certificate of conformity concerning a work to which the ten-year civil liability insurance obligation applies, shall be accompanied by an insurance certificate issued by an IU, giving the presumption that the said insurance obligation has been met.

If the aforementioned insurance certificate is not produced, the municipal Authority shall draw up a report and forward it to the competent planning Authority.

Subsection 6. Ownership transfer

Article 157. Any act of transfer of ownership or use of a work to which the decennial civil liability insurance obligation applies, occurring before the expiry of the ten (10) year period, must mention the existence of the said insurance.

Section 3. Common provisions

Subsection 1. Taxable goods

Article 158. The insurance obligations provided for in Articles 151 and 152 of this Law shall apply to any construction, particularly for residential, school, hospital, industrial, commercial and sports purposes, whose characteristics are provided for by the regulations relating to town planning.

The insurance obligations shall apply to any construction site made up of several buildings intended for one or more of the purposes referred to in the above paragraph and covered by a single building permit.

The characteristics of the constructions provided for in the first paragraph shall be set by regulation in accordance with the regulations relating to town planning and housing.

In the case of property built by the State as the client, the State is its own insurer.

Subsection 2. Exclusions

Article 159. The insurance obligations referred to in Articles 151 and 152 of this Law do not apply to:

- property other than that listed in the preceding Article;
- any modification made to existing constructions;
- works with no load-bearing structure made of concrete and/or reinforced concrete and/or pre-stressed concrete and/or steel and/or rubble masonry.

Subsection 3. Forfeiture clause and non-insurance

Article 160. Contracts for all-risk construction insurance and ten-year civil liability insurance may include forfeiture clauses.

However, with regard to all-risk construction insurance contracts, forfeitures cannot be invoked against third parties or their rightful claimants, nor against the client with regard to "construction site civil liability guarantee".

In this case, the IU shall settle the compensation on behalf of the liable party and may bring an action against the latter for reimbursement of all the sums it has so paid.

Non-insurance resulting from the regular suspension of guarantee for non-payment of premium or contribution shall be enforceable against the victims or their rightful claimants.

Subsection 4. Proof of the insurance obligation

Article 161. The client who carries out or commissions construction work on a building work to which the insurance obligations set out in Articles 151 and 152 of this Law apply may either:

- require any person carrying out work on the site who is subject to one or more of the aforementioned obligations to produce to him the insurance certificate(s) presuming that one or more of the above obligations have been fulfilled, on pain of termination of the contract with the said person;
- or take out the insurance contract(s) provided for in Articles 151 and 152 of this Law on behalf of the said person. The project manager may bring an action against the person concerned for reimbursement of the premium or contribution paid on his behalf under the said contracts.

Subsection 5. Presentation of the insurance certificate

Article 162. The insurance certificates issued by an IU presuming that the insurance obligations provided for in Articles 151 and 152 of this Law have been fulfilled, shall be presented by the project manager or his representative to the agents who are responsible for noting breaches of the regulations relating to town planning and ensuring that the aforementioned insurance obligations have been fulfilled.

Article 163. The town planning officer who has noted the failure to present one of the said insurance certificates or the fulfilment of one of the aforementioned insurance obligations, shall draw up a report and apply the procedures provided for by the regulations in force.

A copy of the official report of the infringement shall be sent to the offender.

Article 164. The IU authorised to carry out construction insurance operations are required to guarantee the risks provided for in Articles 151 and 152 of this Law.

CHAPTER 3. INSURANCE OF CARGOS FOR IMPORT

Section 1. Insurance obligation

Article 165. Any natural or legal person who carries out import operations of goods or marine cargo or air cargo on the territory of the Republic of Madagascar is subject to the insurance obligation of faculties provided for in Article 4 of this Law.

This insurance must be taken out with IUs approved in Madagascar.

Section 2. Object and scope of the insurance obligation

Subsection 1. Object of the insurance

Article 166. The insurance obligation shall apply per insured voyage, to goods and merchandise imported to professionals, carriers and commercial transport auxiliaries. This concerns goods and merchandise transported by sea or air.

In all cases, the obligation does not extend to:

- the liability, on whatever grounds, to third parties or contractors of the insured or any other beneficiary of the insurance, both on his own account and on the account of the insured goods and merchandise;
- the risks incurred by the insured and by other beneficiaries of the insurance in connection with their business or commercial operations;
- the goods and merchandise which are the subject of prohibited or clandestine trade.

Subsection 2. Scope of compulsory insurance

1. Insured risks

Article 167. The risks insured are freely defined in the provisions of the contract entered into between the parties.

Imported goods or cargos must be guaranteed in the event of maritime or air transport from the harbour or embarkation airport to the harbour or disembarkation airport.

However, in the absence of "All-Risks" cover, goods and merchandise imported by sea cannot be insured under conditions lower than those of the "Free of Particular Average except Major Events" guarantee, known as "FPA Except".

The "FAP Except" guarantee covers material damages and losses as well as loss of weight or quantity caused to the insured items by one of the events listed below, in particular:

1. collision, stranding or sinking of the boat or carrier vessel;
2. collision of such vessel or craft with a fixed, movable or floating body, including ice;
3. waterways which have obliged the vessel to enter a port of refuge and to unload part

of its cargo there;

4. fire, explosion or fall of the insured package itself during the maritime operations of embarkation, transshipment or disembarkation, derailment, collision, overturning, fall or breakage of the transport vehicle;
5. collapse of buildings, bridges, tunnels or other structures, falling trees;
6. aircraft crashes;
7. breakage of dykes or water pipes, landslide, avalanche, lightning, flood, river overflow, ice break-up, tidal wave, severe cyclone or waterspout, volcanic eruption and earthquake.

The "All-Risks Insurance" guarantee covers in particular:

- material damages and losses as well as loss of weight or quantity caused to items by an event listed in the above paragraph, by sea fortune or an event of force majeure;
- the looting and total disappearance of a package, container and contents unless they result from excluded risks, from total or partial theft.

2. Damage cover

Article 168. Compulsory insurance of goods and merchandise imported by air or sea transport shall cover, as a minimum, material damages and losses as well as losses of weight or quantity caused to the insured goods by one of the following events:

1. crash, breakage, loss or sinking of the carrier aircraft;
2. the aircraft collision with another one or with a fixed, movable or floating object;
3. derailment, collision, fall or breakage of the vehicle during the incidental land transport;
4. fire, explosion, collapse of buildings, bridges, tunnels or other structures, sudden and fortuitous roadway collapse, falling trees;
5. rupture of dykes or water pipes;
6. landslides, avalanche, lightning, flood;
7. ice break-up, tidal wave, severe cyclone or waterspout, volcanic eruption and earthquake.

The additional guarantees to the minimum guarantees of the insurance obligation will also have to be subscribed to the approved IU in the non-life branch in Madagascar.

Section 3. Guarantee exclusions

Article 169. Are applicable, the clauses in contracts whose purpose is to exclude from cover the liability incurred by the insured as a result of:

1. confiscation, sequestration, requisition, violation, blockade, smuggling, preventive seizure, execution seizures or other seizures. The IU shall also remain unaffected by the security which may be given to release the insured goods, merchandise or cargos from such seizures;
2. intentional or inexcusable fault of the insured and the other beneficiaries of the insurance, their agents, representatives or rightful claimants;
3. the inherent vice of the goods and merchandise or insured cargos, worms and vermin, influence of the temperature, road braking in use;

4. absence, insufficiency or unsuitability;
5. preparation, packing or packaging of the goods;
6. wedging or stowage of the goods when carried out by the insured, his representatives or rightful claimants;
7. delay in the shipment or arrival of the insured cargos unless it results from the shipwreck, capsizing or grounding of the ship or boat against a fixed, movable or floating body, including ice; aircraft crashes, waterways which have obliged the ship or boat to enter a port of refuge and to unload all or part of its cargo there;
8. weapons or devices intended to explode by modification of the structure of the atomic nucleus;
9. civil or foreign war, hostility, reprisals, torpedoes, mines or any other engines of war and generally all accidents and fortunes of war as well as acts of sabotage or terrorism of political or war-related nature;
10. captures, arrests, seizures, restraints, molestations or detentions by any government or authority whatsoever;
11. riots, civil commotion, strikes, lock-outs and other similar events;
12. piracy of a political nature or connected with war;
13. loss of securities due to exchange rate differences.

The responsibility to prove that the disaster resulted from one of the events listed in the previous paragraph falls to the IU..

Section 4. Control of the insurance obligation

Article 170. The insurance contract taken out by any natural or legal person shall give rise to the issuance of an insurance certificate, whose template shall be determined by regulation.

This document shall establish, until proof to the contrary, that the insurance obligation has been fulfilled for the period indicated.

The insurance certificate shall be drawn up in three (3) copies:

- the original given to the insured;
- one copy kept by the insurance company;
- one copy for the Customs Administration. This copy must be handed over by the insured to the competent Customs department at the time of customs clearance of the insured goods or cargos.

CHAPTER 4. SCHOOL AND SCHOOL ACCIDENT CIVIL LIABILITY INSURANCE

Section 1. Insurance obligation of civil liability and school accident

Subsection 1. General provision

Article 171. All private schools shall be obliged to take out school insurance to

protect third parties and pupils attending school during school time. This guarantee includes:

- school civil liability insurance;
- school accident insurance.

Subsection 2. Persons subject to the insurance obligation

Article 172. School insurance shall be taken out by the Head of the private school before the start of each school year.

Section 2. Object and scope of the insurance obligation

Subsection 1. Scope of compulsory insurance

Article 173. Compulsory school insurance covers school activities taking place during school time, whether inside or outside the school premises, throughout the school year, in particular:

- compulsory or optional activities such as teaching, sports activities, school excursion and trips or other socio-cultural activities organised by the school;
- activities associated with school time carried out by the insured within the school premises, in particular catering, day care and supervised studies.

Subsection 2. Determination of risks and scope of guarantee

Article 174. The school insurance covers the child for civil liability and in the event of school accidents. The guarantee covered relates to the financial consequences of:

- the liability incurred by the schoolchild as a result of any personal injury, material and immaterial damage caused to third parties following an accident occurring during school time;
- personal injury, material and immaterial damages suffered by the child as a result of an accident occurring during school time.

Subsection 3. Extension of the guarantee

Article 175. The guarantee can also be extended to damage to property: personal objects and school supplies used in the course of lessons, belonging to the student or entrusted to the student by the school in the event of theft with aggression or racketeering, within the school premises.

Section 3. Exclusion of warranty and forfeiture

Subsection 1. Forfeiture

Article 176. Shall be deprived of all rights to a guarantee, any person who knowingly:

- makes false declarations as to the nature, circumstances, causes or consequences

of the damage;

- uses fraudulent means or false documents as justification;
- makes a fraudulent overvaluation of the losses relating to the accident.

Subsection 2. Exclusion

Article 177. Are applicable, the clauses in contracts whose purpose is to exclude from cover personal injury resulting from:

- the pupil's voluntary participation in a challenge, bet, fight or brawl;
- the practice of a competitive sport within the framework of the activities of a sports federation;
- the schoolchild's obvious state of drunkenness, alcoholism or the influence of other narcotics, psychotropic substances and precursors at the time of the accident.

Also valid are the clauses of the contracts whose purpose is to exclude from the guarantee the liability incurred by the insured due to:

- damage caused intentionally or fraudulently by the pupil or his supervisor;
- damage caused by the pupil in the context of a traineeship or professional activity;
- damage occurring when practicing dangerous sports.

Section 4. Control of the insurance obligation

Article 178. The control of the insurance obligation provided for in Article 171 of this Law on schools is ensured by the Ministry in charge of National Education.

CHAPTER 5. PROFESSIONAL CIVIL LIABILITY INSURANCE FOR THE REPAIR, SALE AND INSPECTION OF LAND MOTOR VEHICLE

Section 1. Persons subject to the Law

Article 179. Legal persons engaged in the repair, sale and inspection of land motor vehicles as defined in Article 117 shall be required to insure their own liability, that of the persons working in their operation, that of the persons having custody or control of the vehicle and that of the passengers. These persons shall carry out all or some of the following activities:

- the sale or depot sale of land vehicles;
- the repair, inspection, maintenance, equipping, breakdown and towing of land vehicles on behalf of third parties.

This obligation applies to the civil liability which may be incurred by the persons mentioned in the preceding paragraph as a result of damage:

1. caused to third parties by the vehicles entrusted to the persons referred to in the previous paragraph on account of their duties and those used in the course of their professional activity;

2. caused by the professional due to his premises, equipment, machines, tools or any object belonging to him or rented to him;
3. suffered by one of their customers, their visitors, their suppliers, their employees or a simple third party;
4. due to negligence or recklessness, where the victim shall prove the causal link between the damage and the action of the company.

The characteristics of the persons subject to this obligation are determined by decree on CSBF proposal.

Object and scope of the guarantee

Subsection 1. Object of the guarantee

Article 180. The IU covers the pecuniary consequences of the civil liability which may fall on the persons referred to in Article 179 above as a result of personal injury, material or immaterial damage caused to third parties in the performance of the activities declared to the IU, within the premises of the insured's undertaking or with third parties.

In addition to the guarantees provided for in the previous paragraph, the IU guarantees the insured against:

1. the pecuniary consequences of the civil liability which may be incumbent on him as a result of bodily, material and immaterial damage caused to third parties:
 - after delivery of vehicles designed, manufactured, processed and/or sold by the insured and resulting from a product defect, fault, error or negligence in the design, preparation, manufacture, processing, storage, packaging, operating instructions or delivery;
 - after completion of the work or services resulting from a defect, fault, error or negligence in the execution of the work supplied and carried out within the framework of the declared activities;
2. the pecuniary consequences of the civil liability which may be incumbent on him as a result of material damage caused to vehicles entrusted by a third party on which the insured provides his services;
3. the pecuniary consequences of the civil liability which may be incumbent on him as a result of theft of and damage to:
 - customer's vehicles handed over to the insured;
 - customer vehicles parked on the premises of the insured's company;
4. the pecuniary consequences of the civil liability which may be incumbent on the insured in the event of failure of his services causing damage to his clients or to third parties and resulting from a fault, error, omission or negligence committed by himself or by his agents.

Subsection 2. Scope of the guarantee

Article 181. The civil liability exploitation guarantee is provided on the territory of the Republic of Madagascar. It is extended, as far as civil liability insurance is concerned,

after delivery or completion of the work and professional civil liability insurance, to the whole world with the exception, however, of exports and services to the United States of America and Canada.

Section 3. Exclusion

Article 182. Are applicable, the clauses in contracts whose purpose is to exclude from cover the liability incurred by the insured as a result of:

1. material and immaterial damage resulting from fire, explosion or water damage occurring in premises of which the insured is the owner, tenant or permanent occupant in any capacity whatsoever;
2. losses or damages due to the fault of the victim or resulting from the nature or inherent vice of the object;
3. professional misconduct resulting from an obvious lack of professional qualification of the insured or his agents. Qualification means intellectual ability and appropriate training;
4. the consequences of contractual commitment accepted by the insured insofar as they exceed those which would have been incumbent on him under the legal texts on liability, in particular:
 - contractual solidarity or contractual transfer of liability clauses;
 - waiver of recourse clauses not declared to the IU;
 - penalty clauses setting in advance the amount of compensation due in the event of late performance or non-performance of contractual services;
5. the personal civil liability of the insured's employees, subcontractors and agents;
6. damage resulting from the deliberate choice of an abusive economy on the cost of the service;
7. damage resulting from force majeure or similar events or other unforeseeable, irresistible or unavoidable circumstances that make it impossible for the insured to fulfil all or part of its obligations.

Section 4. Control of the insurance obligation

Article 183. Any person referred to in Article 179 of this Law must be able to present an insurance certificate issued by the IU, presuming that the insurance obligation has been fulfilled.

However, this insurance certificate does not imply a guarantee obligation on the part of the IU, which is only committed by the insurance contract itself.

In the event of loss or theft of the insurance certificate, the IU will issue a duplicate at the request of the insured concerned, subject to the presentation of a declaration of loss issued by the competent Authority.

The control of the insurance obligation shall be carried out by the authority empowered to grant the opening licence. Where the aforementioned authority finds that the insurance obligation has not been fulfilled, the company subject to the obligation must take out insurance immediately, on pain of closure of its premises until the situation is remedied.

TITLE VI: RULES ON GROUP INSURANCE CONTRACTS

Section 1. Definition

Article 184. A group insurance contract is a contract taken out by a legal person or a business executive for the subscription of a group of persons complying with the terms laid down in the contract, to cover the risks relating to the life and non-life branches provided for in Article 5 of this Law.

The members must have a common link or a lawful interest with the policyholder. This common link or lawful interest shall be prior to and independent of entering into the insurance contract. Members of their respective families may also join the contract.

Article 185. The sums owed by the member to the policyholder under the insurance contract must be deducted separately from any sums he may owe him under another contract.

Section 2. Policyholder

Article 186. For group insurance contracts, the policyholder shall act on behalf of the member and the beneficiary, for the purpose of taking out the contract and for the performance thereof.

The policyholder may not receive any direct or indirect remuneration and in any form whatsoever, for his intervention within the framework of a group insurance contract.

Section 3. Policyholder's obligations

Article 187. The policyholder shall be obliged, by any means which leaves a written record, to:

- provide the member with an information notice in the form of a physical or electronic document drawn up by the IU defining the guarantees and the terms and conditions of entry into force as well as the formalities to be carried out in the event of a disaster;
- inform members by any means that leaves a written record of the changes to their rights and obligations within three (3) months before the planned date of their entry into force.

Proof of delivery of the notice provided for in the first point above to the member and the information relating to the contractual amendments shall fall to the policyholder.

Section 4. Member's prerogatives

Article 188. The member may cancel his membership as a result of the contractual amendments provided for in the second indent of Article 187 above.

However, the waiver option is not available to the member where the link between him and the policyholder makes membership of the contract compulsory.

The policyholder of a group insurance contract covering borrowers may not modify or terminate the contract without each borrower's agreement.

Article 189. The legal representative of an adult under tutelage may take out a group insurance contract on behalf of the latter in the event of death, entered into for the purposes of an employment or a company agreement.

Section 5. Exclusion of a member

Article 190. The policyholder may exclude a member from the group insurance contract only if the link between them is broken, or if the member ceases to pay the premium or contribution, or if the IU proves that the member or his rightful claimants have committed acts which make it impossible to keep him/them in the group.

Article 191. When a member ceases to fulfil the conditions for membership of a group insurance contract involving savings, the IU may offer him the option of taking out an individual contract or, in the event of refusal, pay him the amount of the mathematical reserve to which he is entitled as defined by CSBF instructions.

TITLE VII: INSURANCE SERVICE PROVIDERS

CHAPTER 1. INSURANCE UNDERTAKINGS

Article 192. The IUs are approved by CSBF as insurance companies, reinsurance companies and mutual insurance companies.

The IUs shall establish their head offices on the territory of the Republic of Madagascar.

Insurance companies are all entities authorised to carry out, on a regular basis, insurance and reinsurance operations as provided for in Articles 5 and 8 to 12 of this Law.

Reinsurance companies are all entities authorised to carry out, on a regular basis, reinsurance operations as defined in Article 8 of this Law.

Mutual insurance companies are all entities authorised to insure, on a regular basis, the risks incurred by their members or to provide the insurance operations provided for in Articles 5 and 8 to 12. They are subject to the special provisions of Articles 194 to 210 of this Law.

Article 193. All acts and documents issued by the IUs must mention their name preceded or followed immediately by the words, written legibly in full, "insurance company", "reinsurance company", "insurance and reinsurance company", "mutual insurance company with fixed premium or contribution" or "mutual insurance company with variable premium or contribution" as appropriate.

CHAPTER 2. SPECIAL PROVISIONS FOR MUTUAL INSURANCE COMPANIES

Section 1. Constitution-organisation-operation

Subsection 1. Constitution

Article 194. Mutual insurance companies are established to insure the risks incurred by their members in return for the payment of a fixed or variable premium or contribution. They shall guarantee to their members that the commitments they entered into are fully paid up.

Where mutual insurance companies operate only in the life branch, premiums or contributions shall necessarily be fixed.

Subsection 2. Organisation

Article 195. Mutual insurance companies bring together members made up of natural or legal persons, the minimum number of members being determined by CSBF instruction.

They are based, *inter alia*, on the principles of mutual assistance, equality of rights and members' obligations. Each member has the right to one (1) vote, which cannot be breached by the statutes.

Clauses in the statutes which make participation in the General Assembly conditional on the amount of the premium or contribution or the election of the General Assembly members in relation to their premiums or contributions shall be null.

The aforementioned nullity action shall become void after five (5) years.

Mutual insurance companies shall have legal personality from the date of their incorporation. They are registered in the Trade and Companies Register.

When the deed of incorporation is filed with the Trade and Companies Register, the surnames, first names, professions and residences of the directors as well as the head office address must be indicated. Any change in this information must be reported to the Trade and Companies Register.

Subsection 3. Operation

Article 196. The statutes of mutual insurance companies, approved by CSBF, shall imperatively mention:

1. the identity of the natural or legal persons founders;
2. the establishment fund required by the programme of operations attached to the application for accreditation;
3. the minimum number of members required by CSBF instruction;
4. the distribution method for surplus income among the members;
5. the minimum amount of premiums or contributions paid by members for the first annual period;
6. the remuneration method for the directors and the management body.

The statutes may not provide for any special advantages for the founders, directors, managers and the supervisory body.

Mutual insurance companies shall make the statutes of the mutual company available to the members.

Article 197. Any distribution of profits at the level of mutuals is prohibited.

CSBF may object to the allocation of surpluses to reserves or, on the contrary, require it in order to maintain the mutuals' solvency.

It shall lay down by instructions the conditions for the distribution of surplus income, the organisation and operation of mutual insurance companies.

Section 2. Authorised transactions

Article 198. Mutual insurance companies may carry out the "life" and "non-life" branches of activity provided for in Article 5 of this Law.

Some mutual insurance companies, such as local or professional mutuals, may limit their operations to certain branches of activity under their articles of association and are subject to special rules provided that their statutes:

- do not remunerate any intermediary for the acquisition of contracts;
- do not grant any remuneration to their directors;
- limit their operations to the risks of a profession members or a region inhabitants.

The conditions for the application of this Article shall be laid down by decree, on CSBF proposal.

Article 199. Mutual insurance companies may not commence transactions unless they have met the conditions for approval provided for in this Law and its implementing regulations.

Section 3. Limitation of members' commitments

Sub-section 1. Mutual insurance company with fixed premium or contribution

Article 200. Unless otherwise provided in regulations or the statutes, members shall not, under any circumstances, be liable for more than the premium or contribution stated in the contract in the case of membership of a mutual insurance with fixed contributions.

Moreover, mutual insurance companies with a fixed premium may not, under any circumstances, issue reminders of the premium or contribution. The amount of the premium or contribution is calculated broadly to cover all compensations.

Any surpluses shall build up reserves that can be used to settle future disasters.

Subsection 2. Mutual insurance company with variable contribution

Article 201. Unless otherwise provided in the regulations or statutes, members shall not, under any circumstances, be required to pay more than the maximum premium or contribution mentioned in the contract in the case of a mutual insurance association

with variable contribution.

The maximum amount of the variable premium or contribution shall be set by decree on CSBF proposal in order to meet the probable expenses resulting from disasters and the acquisition and management costs.

Mutual insurance companies with variable contributions are authorised to issue reminders when the premiums or contributions collected prove to be insufficient to settle damages.

Any surpluses resulting from premium or contribution reminders shall be subject to rebates.

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

Section 4. Loans

Subsection 1. Prior authorisation

Article 202. Subject to CSBF prior authorisation, mutual insurance companies may take out loans to build up:

the establishment fund provided for in their statutes;

the establishment fund required within the framework of an application for registration of a new branch of activity;

the supplementary establishment fund provided for by regulation.

Any loan intended to form the funds mentioned in the previous paragraph shall be authorised in advance by the General Assembly of the mutual insurance company and be the subject of a special resolution. This resolution shall determine the members concerned by the subscription and the conditions for participating in the subscription.

CSBF shall decide on this operation within a time limit set by instruction on the basis of the General Assembly resolution and the business plan submitted by the mutual insurance companies.

Subsection 2. Conditions for loans

Article 203. The participation of persons who are already members of the mutual insurance company when the loan is issued may not exceed a certain percentage of their annual premium or contribution whose rate is set by CSBF instruction.

Article 204. In all prospectuses, posters, circulars, notices, advertisements or documents of any kind relating to the loans of mutual insurance companies, it shall be:

- explicitly stated that a privilege has been established for the benefit of the insured;
- indicated that the lender, even if insured, does not benefit from any privilege for the interest and repayment of the loan. This statement should also be stated in prominent characters on the loan documents.

Subsection 3. Loan reimbursement

Article 205. The distributable surpluses shall be allocated on a priority basis to early loans reimbursement. The terms and conditions of this allocation in proportion to the subscriptions of each member shall be determined by decree, on CSBF proposal.

Article 206. When a mutual insurance company takes the initiative to deregister a member, the latter may request the immediate repayment of its contribution to the loan under the terms laid down in its statutes.

Section 5. Issuance of mutual certificates

Article 207. Mutual insurance companies may issue mutual certificates as defined in Article 4 of this Law to their members, subject to obtaining CSBF authorisation in accordance with the terms and conditions laid down by the latter. They may keep a register in which mutualist certificates are recorded. These mutual insurance certificates must be written in French or Malagasy, according to the choice of the insured, in clear, precise and simple terms and in legible characters.

Any advertising relating to the issuance of mutual certificates must be accurate, clear and not misleading.

Mutual insurance companies shall be required to provide, prior to subscription, information which reasonably enables policyholders to understand the nature of the mutual certificates offered as well as the risks and disadvantages relating thereto, in order to be able to take their decisions in full knowledge of the facts.

Only the General Assembly is authorised to determine the essential characteristics of the said certificates issuance. It may, however, delegate to the Board of Directors the powers needed to adopt the practical terms and conditions, subject to a report by the Board of Directors at the next General Assembly.

The issuance contracts may not be intended to favour a category of members, persons who are linked to the mutual insurance company by an employment contract, de jure or de facto managers of the company or any other person. Contracts entered into in violation of this provision shall be absolutely null.

Mutual insurance companies may also make a public offer under the terms laid down by the relevant regulations.

Section 6. Transformation of mutual insurance companies

Article 208. Extraordinary general assemblies of mutual insurance companies shall decide on mergers, demergers or partial contributions of assets and changes in legal form to a public limited company, subject to CSBF prior authorisation. CSBF may refuse the transactions if the pecuniary situation of such mutual insurance companies jeopardises or is likely to jeopardise their financial stability and their overall operation.

CSBF shall issue instructions setting out the terms and conditions of mergers,

demergers, partial contributions of assets or changes of legal form.

Where the envisioned operation entails the creation of a new institution, the latter shall apply for approval in accordance with Article 229 of this Law before starting its business.

Article 209. The transformation of mutual insurance companies must ensure that the insured are treated fairly and equitably, that they are sufficiently informed in advance of the planned transaction and that they have the opportunity to submit their observations under the terms and conditions and in accordance with the procedures laid down by CSBF

Section 7. Dissolution

Article 210. In the event of voluntary dissolution of a mutual insurance, the excess of net assets over liabilities shall be transferred either to other mutual insurance companies or to associations recognized as being of public utility, by decision of the General Assembly.

The mutual insurance company shall inform CSBF of the completion of this operation and the name of other mutual insurance companies provided for in the previous paragraph.

CHAPTER 3. BRANCH OF A FOREIGN INSURANCE COMPANY

Article 211. CSBF may authorize the opening of a branch of a foreign reinsurance company to carry out the reinsurance operations provided for in Article 8 of this Law on the territory of the Republic of Madagascar, subject to obtaining an approval provided for in Article 229 of this Law.

The provisions of this Law relating to IUs apply to branches of foreign reinsurance undertakings, with the exception of those relating to legal form and head office.

Branches of foreign reinsurance undertakings shall be governed by the provisions of the Law on Commercial Companies.

All the provisions of this Law relating to corporate officers provided for in Article 290 of this Law shall apply to the general agents of branches.

CHAPTER 4. INSURANCE INTERMEDIARIES

Section 1. Common provisions for IRIs

Subsection 1: Authorised operations and persons concerned

Article 212. IRIs are entitled, for remuneration, to:

- present, advise, propose, request or collect the subscription or membership of one or more insurance or reinsurance contracts;
- carry out preparatory work for entering into one or more of the aforementioned contracts;

- carry out after-sales activities for one or more of the above contracts.

Presentation of an insurance operation is deemed as the fact that any natural or legal person explains orally or by any process that leaves a written record, to a potential subscriber or member, the security terms of an insurance contract with a view to this subscription or membership.

The following are considered as IRIs:

- insurance or reinsurance general agents;
- insurance or reinsurance brokers trained by insurance or reinsurance brokers' agents;

The following shall be established by CSBF instruction:

- the terms and conditions for carrying out IRIs' activities, including in particular legal status, conditions of good reputation and professional capacity, financial guarantee, CSBF authorisation granting and withdrawal;
- information to be provided by IRIs to consumers before entering into the insurance contract and the information required on any document for professional use within the framework of their activity;
- any other element required.

Subsection 2. Access conditions to IRI profession

1. Prior authorisation

Article 213. The exercise of the activity of an IRI is subject to CSBF prior authorisation. The authorisation shall be granted to:

1. natural persons in the capacity of:
 - a) general insurance or reinsurance agents;
 - b) insurance or reinsurance brokers;
2. legal persons as:
 - a) general insurance or reinsurance agents;
 - b) insurance or reinsurance brokers.

An instruction from CSBF sets out the terms and conditions for obtaining this authorisation as well as the authorised insurance operations.

The authorisation issued by CSBF specifies the authorised insurance services and the conditions to which the authorisation is subject.

CSBF publishes the decision on and authorisation withdrawal on the BFM website. It draws up a list of IRIs and assigns them a registration number depending on whether

they are natural or legal persons. It updates and publishes the said list on the BFM website, which is transmitted to the professional associations provided for in Articles 344 and 347 of this Law.

2. Good repute and professional capacity

Article 214. IRIs must prove their good repute and professional capacity to their employers. Conditions relating thereto and communication terms and conditions to CSBF concerning the list of such employees shall be determined by instruction of the latter.

Any natural person exercising the function of IRI must hold a professional card issued by the professional association provided for in Article 347 of this Law, under the conditions laid down by an instruction from CSBF.

Obtaining this professional card is subject to the payment of a registration fee to the Professional Association, the amount of which is fixed by order of the Minister in charge of Finance upon CSBF proposal.

Registration fee is paid when registration application or professional card renewal application is submitted.

Registration fees shall be allocated to the operating costs of the Professional Association subject to reporting at the annual General Assembly meeting.

Article 215. Any change in the information concerning IRIs shall be notified to CSBF General Secretariat in accordance with the terms and conditions set out in CSBF's instructions.

Subsection 3. IRI's capacity requirements

Article 216. Any natural person entitled to undertake insurance or reinsurance transactions must:

1. have reached legal majority age;
2. be of Malagasy nationality or otherwise be a resident in compliance with the regulations governing foreigners' status and policies;
3. meet professional capacity conditions set by CSBF instruction;
4. not be subject to any of the prohibitions set out in Article 415 of this Law.

Subsection 4: Incompatibilities

Article 217. Regardless of the regulations governing the exercise of certain professions or civil service status, the following activities are incompatible with the exercise of broker profession provided for in Article 226 of this Law:

1. directors, managers, internal controllers;
2. motor vehicle manufacturers, dealers, sales agents or motor vehicle repairers, companies and agents of motor vehicle credit companies;
3. contractors for public works, buildings and architects;

4. industrial and commercial company representatives;
5. chartered accountants registered in Table A of the “Ordre des Experts Comptables et Financiers de Madagascar” (Order of Chartered Accountants and Finance of Madagascar), abbreviated as "OECFM", practicing on a private basis, legal and tax advisers and insurance experts;
6. real estate agents, property managers, rental of businesses sale agents, managers or agents of construction or property development companies;
7. natural or legal persons belonging to any company for the purpose of negotiating or underwriting the insurance contracts of that company or its subsidiaries.

Subsection 5: Financial security

Article 218. IRIs entrusted with funds shall at all times provide evidence of a financial guarantee issued by a credit institution. Conditions for the application of this Article, in particular the amount and the implementation of the aforementioned guarantee, shall be established by CSBF instruction.

In all cases, IRIs must be able to justify their situation with regard to financial security at any time.

Subsection 6: Civil liability

1. Security object and scope

Security object

Article 219. For the exercise of an IRI activity, the employer or principal is civilly liable, in the terms of Articles 218 and 219 of Law on the General Theory of Obligations, for damage caused by the fault, imprudence or negligence of his employees or agents acting in that capacity, notwithstanding any agreement to the contrary.

Each IRI must be able to justify at any time the existence of an insurance contract covering him against the financial consequences of his professional civil liability.

Scope of the guarantee

Article 220. The IU covers all risks that may engage the IRI responsibility for non-material damages caused to third parties due to error, oversight, negligence, omission, or faults committed by its employees in the execution of the service as well as for the loss or destruction of parts or documents entrusted to the IRI in the exercise of its profession.

The insurance contract shall guarantee compensation for any loss known to the insured within a maximum period of twelve (12) months from the expiry of the said contract, provided that the event giving rise to the loss occurred during the contract validity period.

The contract is tacitly renewed on the first of January of each year. Unless three (3) months' notice is given before the end of the designation treaty, the certificate is renewed annually when the contract is renewed.

Exclusion

Article 221. Are considered as valid, any clauses in contracts whose purpose is to exclude from liability security incurred by the insured as a result of:

1. financial sanctions imposed on the IRI;
2. consequences of the civil liability incurred to IRI's directors or officers;
3. consequences of fraudulent practices, intentional or fraudulent misconduct and criminal offences committed by the IRI;
4. consequences of faults, errors or omissions, negligence or inaccuracies committed in the IRI activity financial management, the fund non-return and embezzlement or misappropriation committed by the IRI.

3. Insurance obligation control

Article 222. The IU shall issue the IRI a professional indemnity insurance certificate.

The IRI must be able to present a document presuming that the insurance obligation has been fulfilled.

The presumption that the IRI has fulfilled the insurance obligation is established by the presentation of the insurance certificate provided for in the first paragraph.

CSBF shall supervise the taking out of professional indemnity insurance by the IRI.

Subsection 7. Authorisation withdrawal

Article 223. CSBF shall withdraw a license to practice in the following cases:

- Non-compliance with the provisions of this Law and its implementing legislation;
- Resignation, death for natural persons;
- Dissolution and bankruptcy for legal entities.

Upon the authorisation withdrawal, the IU shall take all measures to ensure the proper termination of the operations in progress.

Failure by the IRIs to comply with the conditions set out in Articles 214, 216 to 218 of this Law shall result in their removal from the list of intermediaries established by CSBF. CSBF shall publish the removal from the list on BFM website.

Subsection 8. Advertising

Article 224. IRIs publish on their website and on any other medium accessible to the general public the official list of their IU partners, their geographical location and the services they provide.

Any document for professional use issued by an IRI must include the words "financial security and civil liability insurance" provided for in Articles 218 and 219 of this Law.

IRIs specific provisions

Subsection 1: General agents

Article 225. With CSBF authorisation, IUs may entrust natural or legal persons called general agents with insurance operations presentation by virtue of an appointment treaty under the terms laid down by CSBF instruction.

General agents may act on behalf of one or more IUs provided that the insurance products are not in competition with each other. However, they may present the same insurance products provided by several IUs if these IUs jointly submit the application for authorisation.

General agents' remuneration is set between the parties to the contract for their IRI activity.

The terms and conditions for the remittance of premiums or contributions to the IUs shall be laid down in the designation treaty.

Subsection 2. Insurance or reinsurance brokers

Article 226. Insurance or reinsurance brokers are natural or legal persons acting on their own behalf as intermediaries between the policyholders they represent and approved insurance companies.

Brokers are traders registered in the Trade and Companies Register and are subject to all the rules of commercial law.

Brokers are policyholders or IUs' agents and are liable to them. Their task is to advise them and to provide policyholders with the most suitable contracts.

Brokers may act on behalf of one or more IUs. However, IUs may not establish relations with brokers not authorised by CSBF, under penalty of the application of criminal sanctions provided for in Article 433 of this Law.

Under penalty of authorisation withdrawal, premiums, contributions or fractions of premiums or contributions collected by brokers on IUs' express mandate must be paid back to IUs in accordance with the conditions set out in the contract between IUs and brokers.

Brokers are remunerated by commissions paid by IUs. These commissions are freely negotiated with IUs to which they bring contracts. However, a minimum rate per branch is set by CSBF instruction. Brokers' remuneration rates are based on a percentage of the premiums or contributions collected, i.e. as fees.

Commissions due to brokers must be paid within thirty (30) days of the collection of premiums or contributions by the IUs.

Section 3: Persons excluded from insurance mediation

Article 227. The following persons shall not be considered as IRIs if they carry out individual or group insurance operations as part of their professional activities and cannot be remunerated accordingly:

1. for individual insurance:
 - any lender or person involved in the granting of a loan who presents insurance taken out expressly and exclusively to serve as a security for loan repayment;
 - any person employed by any service provider governed by banking regulations and any other non-banking financial institution;
 - any manager or staff of Travel Agencies and Tour Operators for the presentation of luggage insurance, assistance guarantees linked to travel.

CSBF shall establish by means of an instruction the conditions authorising these persons to present the above operations.

2. for group insurance, any policyholder or his employees or agents as well as any natural or legal person expressly designated for this purpose in the group insurance contract, provided that this presentation does not give rise to the direct or indirect awarding of any commission or other remuneration to the said persons.

CHAPTER 5. DISTRIBUTION CHANNELS

Article 228. The IUs may use distribution channels in connection with the offer and promotion of insurance services, subject to CSBF prior authorisation, in accordance with the conditions laid down in its instructions.

Distribution channels shall not be considered as IRIs under Article 212 of this Law. These channels shall carry out activities within the framework of providing insurance services as an accessory to their main activity under the conditions laid down by CSBF instruction.

Distribution channels are, in particular, banking service providers governed by the Banking Law, electronic money institutions governed by the Electronic Money Law, all other non-banking financial institutions, non-governmental organizations, development agencies, associations, cooperatives, mobile telephone operators, and distribution channels, subject to compliance with the regulations applicable to them.

IUs shall publish on their website and on any other publicly accessible medium the official list of their distribution channels.

TITLE VIII: CONDITIONS FOR CARRYING ON INSURANCE BUSINESS

CHAPTER 1. AUTHORISATION

Section 1. Approval principle

Article 229. The performance of the insurance activity provided for in Articles 5 and 8 to 12 of this Law is subject to CSBF prior approval.

Approval is granted upon application made by the company for the operation of one or more insurance categories within a business life and/or non-life class provided for in its

operating programme.

IUs authorised to operate in the life class may directly provide, as ancillary insurance forming part of a life insurance contract, insurance against the risks of loss of employment and personal injury, including occupational disability, accidental death or invalidity resulting from accident or illness. In this case, the contract must specify that these supplementary securities end at the latest at the same time as the main security.

IUs obtaining authorisation for a main risk belonging to a non-life class may also insure other ancillary risks without requiring authorisation for these risks, if they are related to the main risk, concern the object covered against the main risk and are guaranteed by the contract covering the main risk.

CSBF shall lay down the conditions for the application of this Article in an instruction.

Section 2. Application for approval

Article 230. IUs must indicate, upon application for approval, the branch(es) of activity and the categories of insurance they intend to operate.

Article 231. The application for approval must be filed with CSBF General Secretariat. It shall essentially include the presentation of:

1. the promoter or founders;
2. the structure of the share capital or the establishment fund guaranteeing good and prudent management;
3. the elements allowing to assess the good repute and the qualification of the prospective managers;
4. the business plan guaranteeing the viability, goodness and sustainability of the institution, drawn up on the basis of justified or realistic parameters, which must be certified by an independent actuary;
5. sufficient technical and financial resources appropriate to activity programme;
6. the preventive recovery plan referred to in Article 262 of this Law;
7. the governance and control system;
8. the internal control and risk management system;
9. the origin of financial resources justified in accordance with the regulations on the fight against money laundering and terrorism financing;
10. the tariff plan for the insurance operations to be considered, which must be certified by an independent actuary;
11. a reliable and efficient information and management system that meets CSBF's supervisory requirements;
12. any other information or documents required by CSBF that are relevant to the examination of the application for authorisation.

All promoters shall pay the application fee for approval, the amount and payment terms of which are set by order of the Minister in charge of Finance, upon CSBF proposal. Fees are not refundable, regardless of the outcome of the application for approval.

The criteria for approval and the procedures for examining applications for approval are laid down by CSBF instruction.

Section 3. Approval decision

1. Approval issuance

Article 232. CSBF shall grant approval when the conditions required by this Law and its implementing regulations are met. Approval decision shall be taken within a time limit set by CSBF instruction.

This decision shall specify the name, classification, authorised operations and the conditions to which the authorisation is subject. The IU may only carry out the insurance operations for which it is authorised.

The Secretary General notifies the promoter or the IU of the authorisation decision within a time limit set by CSBF instruction.

CSBF publishes the decision to grant or withdraw authorisation on the BFM website. It establishes and updates the list of approved IUs and assigns them a registration number. This list and its updates are published in the Official Journal.

IUs publish the accreditation decision at their own expense in at least two (2) official journals and post a copy of the said decision at their registered office.

2. Suspensive conditions

Article 233. CSBF shall set one or more conditions precedent in the approval decision. The promoter shall fulfil the said conditions within the time limit specified in the said decision, in accordance with the conditions laid down by CSBF.

3. Approval refusal

Article 234. Reasons must be given for any refusal to grant authorisation. It shall be pronounced in particular where the conditions required by this Law and its implementing provisions are not fulfilled.

Section 4. Modification to the approval elements

Article 235. Any modification to the elements provided at the time of application for approval is subject either to CSBF prior authorisation, or to notification by CSBF General Secretariat in accordance with the terms and conditions defined by CSBF instruction.

In particular, the following operations are subject to CSBF prior authorisation:

1. changes in tariffs;
2. appointment of any person provided for in Article 287 of this Law;
3. extension or implementation of new activities;

4. creation of a subsidiary, branch or representative office abroad;
5. acquisition, extension or transfer of direct or indirect shareholdings in another IU, or any other financial institution operating in Madagascar or abroad;
6. any operation enabling a person acting alone or in concert with other persons, to acquire, extend, reduce or cease to hold, directly or indirectly, a percentage of the share capital or voting rights of an IU as determined by CSBF instruction;
7. reduction or increase in the share capital or the establishment fund;
8. opening in Madagascar of a representative office, as defined in Article 4 of this Law, of a foreign licensed IU;
9. voluntary portfolio transfer;
10. mergers, splits, partial contributions of assets and dissolution;
11. and any other activities defined by CSBF instruction.

CSBF verifies that the planned operation does not jeopardise good and prudent management, the conditions to which the authorisation is subject, and the policyholders' interests.

The authorisation granted for operations involving the acquisition, extension or sale of holdings may be made subject to compliance with commitments entered into by the new shareholders.

In particular, IUs must notify CSBF of the following operations:

- transfer of the IU registered office;
- name change;
- opening of central branches and direct offices.

Section 5. Approval withdrawal

Subsection 1: Causes for approval withdrawal

Article 236. CSBF shall withdraw the approval of an IU in any of the following cases:

1. On its own initiative where the IU:
 - a) has not fulfilled the conditions precedent to approval by the end of the period set by CSBF decision and if no reasoned request for extension is made by the promoter;
 - b) has not started its activity within six (6) months of the conditions precedent to approval lifting;
 - c) has ceased its activity for a period of more than six (6) months, for whatever reason;
 - d) no longer meets the conditions for approval;
 - e) is in breach of the provisions of the regulations applicable to it;

- f) is unable to solve its situation, despite one or more of the recovery measures referred to in Article 358 of this Law;
 - g) no longer provides sufficient securities to enable it to meet its financial commitments;
 - h) gets into difficulties and its dissolution does not give rise to a systemic risk as defined in Article 4 of this Law;
 - i) no longer has the required capital or establishment fund and CSBF deems that the financing plan submitted is manifestly insufficient or that the IU does not comply with the approved plan within three (3) months after the determination of non-compliance with the minimum capital requirement;
 - j) has transferred its contracts portfolio;
 - k) has a balance breach between the company financial resources and its activity;
 - l) has made substantial changes in the distribution of its capital, the quality of its shareholders or the composition of its governance or control structures;
2. at the request of the IU when:
 - a) its Extraordinary General Assembly has decided on early dissolution;
 - b) where the supervisory authority of the head office of a branch of a foreign reinsurance company withdraws the authorisation granted to the foreign company;
 3. where the supervisory authority of the head office of a branch of a foreign reinsurance company withdraws the authorisation granted to the foreign company.

Subsection 2. Consequences of approval withdrawal

1. CSBF monitoring of IU

Article 237. An IU whose license is withdrawn remains under CSBF supervision until all the commitments resulting from the contracts it has underwritten have been fully and definitively paid to the policyholders or until its entire portfolio of contracts has been transferred in accordance with the conditions provided for in Articles 305 and 306 of this Law.

In case of authorisation withdrawal, CSBF shall:

1. notify the IU of the decision to withdraw authorisation, stating its reasons, and publish it on the BFM website;
2. update and publish the list of authorised IUs provided for in Article 232 of this Law;
3. supervise the IU liquidation operations in accordance with Article 381 of this Law;
4. take all measures needed to safeguard the insured persons' interests.

Upon withdrawal of its authorisation, the IU shall immediately cease its activities. It shall enter into liquidation in accordance with the provisions of Article 380 of this Law and publish the decision in at least two (2) legal gazettes at its own expense.

2. Non-life insurance termination

Article 238. Non-life insurance contracts automatically cease to have effect on the fortieth (40th) day at noon, as from the publication of the decision to withdraw approval in the official journals provided for in Article 237 above.

Premiums or contributions due before the date of this decision and not paid by that date shall be payable in full to the IU. They shall be definitively acquired by the IU only in proportion to the period covered up to the date of cancellation. Premiums or contributions falling due between the date of the decision and the date of automatic termination of the contracts shall be due only in proportion to the period covered.

However, as regards marine insurance contracts, a decree upon CSBF proposal shall lay down the conditions under which the provisions of this Article may be waived.

3. Life insurance termination

Article 239. The decision to withdraw authorisation shall set the date on which the contracts cease to have effect. It may authorise their transfer in whole or in part to one or more IUs, extend their term, decide to reduce the sums payable in the event of life or death and the benefits allocated to surrender values, so as to bring the value of the company's commitments down to the amount which the liquidation situation allows to cover.

4. Invalidity of transactions subsequent to approval withdrawal

Article 240. At the liquidator's request, the Commercial Court may declare invalid one or more transactions carried out by the IU following the authorisation withdrawal. The liquidator must prove that the persons contracting with the company knew that the assets were insufficient to guarantee the insured person's privileged claims and that the operation concerned was intended to reduce this security.

5. Commission transfers

Article 241. When an IU carrying out insurance operations on motor land vehicles is subject to a withdrawal of approval, the brokers and the IU non-salaried agents must pay to the liquidation the quarter (1/4) of the commissions amount collected on contracts concerning the compulsory civil liability of the owners of motor land vehicles, since January 1 of the year preceding the year during which the approval is withdrawn.

**TITLE IX: COMMISSION DE SUPERVISION BANCAIRE ET
FINANCIERE CSBF (BANKING AND FINANCIAL
SUPERVISION COMMISSION)**

**CHAPTER 1: DUTIES - STRUCTURE -
ORGANISATION AND OPERATION -
PROHIBITION**

Section 1: Duties - structure - organisation

Article 242. The “Commission de Supervision Bancaire et Financière” (Banking and Financial Supervision Commission), abbreviated to "CSBF", established by the Banking Law, is the administrative, regulatory, supervisory, disciplinary and resolution authority of IUs and IRIs. It is a deliberative body.

CSBF's duties, in the interest of policyholders, are to ensure that the quality of insurance service providers is maintained, to monitor their compliance with the provisions applicable to them, to sanction any noted breaches and to contribute to the financial system stability. It may be assisted by one or more experts, chosen for their good repute, specific technical skills and qualifications, to carry out the tasks assigned to it.

CSBF supports the State and its branches in their efforts to develop the insurance sector in accordance with the supervision objective.

The provisions contained in the Banking Law establishing CSBF, including its composition, organisation and operation, are applicable to the IUs.

Section 2. Operation

Article 243. CSBF General Secretariat is the CSBF executive body. It shall be empowered, inter alia, to take all administrative and management measures required for CSBF smooth running.

CSBF General Secretariat:

1. is in charge of CSBF administrative secretariat and carries out the day-to-day business;
2. carries out IUs permanent and on-site audits, carries out audits recommended by CSBF or its Chairman in case of emergency, and follows up on the recommendations made during the audits;
3. takes all precautionary measures if the IUs situation so warrants, and informs the Chairman promptly;
4. acts before any competent court for CSBF's mission fulfilment, and this, upon delegation of CSBF's Chairman.

Section 3. Incompatibilities

Article 244. CSBF members may not:

- be linked in any way, either directly or through an intermediary, to the IUs, or have any interest in these companies other than as subscribers or beneficiaries of

insurance contracts, under penalty of the sanctions provided for in Article 429 of this Law;

- exercise a function or mandate that is not remunerated or is remunerated directly or indirectly within an IU or an entity of its group. This incompatibility shall continue to apply for a period of one (1) year after the termination of the mandate, with an obligation of reserve with regard to the disclosure of information or documents of which they have become aware during their mandate or function;
- have governmental, institutional and elective functions.

Incompatibility arising during the exercise of a member's office or mandate shall entail the automatic termination of his mandate. In this case, the said member shall immediately notify CSBF Chairman.

Section 4. Fees bearing

Article 245. BFM shall bear the fees incurred in defending supervisory agents who are subject to legal proceedings in the course of their duties.

Section 5. CSBF operating fees

Article 246. Financial intermediaries shall contribute to CSBF operating fees, whose rate, method of constitution and deduction shall be determined by order of the Minister in charge of Finance, upon CSBF proposal.

Approval application fees and penalties provided for in Articles 231 and 273 of this Law are allocated to CSBF operations.

CHAPTER 2. CSBF REMIT

Section 1. As an administrative authority

Article 247. CSBF shall issue the approval of IUs and the prior authorisations provided for in Articles 229 and 235 of this Law under the terms laid down by CSBF instruction.

Section 2. As a regulatory authority

Article 248. CSBF shall establish by way of instruction the prudential and management rules applicable to IUs provided for in Articles 281 and 298 of this Law, which aim, in particular, at ensuring:

1. IUs' smooth running and stability;
2. their financial transparency;
3. insured person protection;
4. fight against insurance fraud;
5. fight against money laundering and terrorist financing;
6. cyber security;

7. stability and strength of the sector;
8. and the effective exercise of CSBF's mission.

CSBF Chairman is empowered to specify, by means of a circular, the terms for the application of the instructions adopted by CSBF.

CSBF will publish the instructions on the BFM website. The instructions are enforceable upon notification to the professional associations referred to in Articles 344 and 347 of this Law.

CSBF shall propose to the Ministry in charge of Finance any amendments it deems necessary to the regulations applicable to IUs, which do not fall within the powers conferred on it by this Law. It shall be consulted on all proposals or projects with the same purpose.

Section 3. As a supervisory authority

Subsection 1: Generalities

1. Scope of the supervisory duty

Article 249. CSBF is responsible for supervising the IUs. Its supervision may extend to IUs' parent companies and subsidiaries, branches of foreign reinsurance companies and IRIs.

CSBF's supervision is carried out at the time of entry into the profession, during the fiscal year and during IUs' liquidation phase.

CSBF takes into account the nature, size, complexity and risk profile of the IUs in carrying out its supervisory mission.

CSBF may be assisted by one or more experts in the performance of the tasks assigned to it. These experts are chosen for their good repute, specific technical skills and qualifications.

2. Types of supervision

Article 250. In view of its prudential supervision mission, CSBF shall supervise the IUs through permanent and on-site supervision of IUs activity to verify compliance with the applicable regulations.

3. Controllers

Article 251. CSBF General Secretariat supervisory officers perform supervisory function on behalf of CSBF.

CSBF may appoint a "delegated supervisor" to carry out an ad hoc mission to an IU in its name and on its behalf in order to:

1. verify compliance with the regulations in force;
2. inform its opinion on specific issues;

3. carry out an in-depth analysis of the IU's situation;
4. carry out any necessary investigations;
5. suggest any preventive measures required.

Article 252. The delegated supervisor may be a natural or legal person. In the case of a legal person, a head of mission is appointed, who is CSBF main contact person in charge of conducting the mission to the IU.

The delegated supervisor acts in the name and on behalf of CSBF. He is subject to CSBF control in carrying out his duties. The delegated supervisor shall report to CSBF on his mission.

The delegated supervisor receives the various reports and minutes of the meetings of the General Assembly, the Board of Directors, the general management and the committees created within the IU, and is responsible for reporting on them to CSBF.

The intervention terms of the delegated supervisor are governed by an agreement with CSBF and are communicated to the IU concerned.

The delegated supervisor recruitment is carried out following a call for applications launched by CSBF.

Failing any application, CSBF Chairman chooses the delegated supervisor from among the chartered accountants listed in the OECFM's Table A. In this regard, the Order proposes at least three (3) names from the list of chartered accountants within fifteen (15) working days of the request made by CSBF Chairman. The proposed chartered accountants shall have at least five (5) years of professional experience.

CSBF's decision appointing the delegated supervisor defines his mandate and missions.

4. Exchanges with IUs

Article 253. With respect to supervision, CSBF holds regular exchanges with the Board of Directors, the general management and the IUs supervisory body to discuss, among other things, strategies, business programmes, deviations from business plans or changes in the IU management, regulations governing the insurance business and the macroeconomic environment in general. Practical terms and conditions related to this are laid down in an instruction issued by CSBF.

5. Request for information

Article 254. CSBF may request from insurance service providers, any authority and any competent person, any information that is useful or necessary for exercising the supervision, enabling it to analyse and evaluate IUs' situation and even to detect and measure the impact of IU failure on the insurance sector.

CSBF is authorised to publish aggregated data on supervised insurance service providers.

CSBF may also ask insurance service providers to provide auditors' reports and, in

general, any accounting documents that it may request to be certified, if necessary.

CSBF shall issue instructions on the content as well as the terms and conditions for reporting the information provided for in the previous paragraphs. It may require more frequent and more detailed additional information necessary for the performance of its duty.

6. Information exchange and cooperation with authorities

Article 255. Exchanges between CSBF and national or foreign authorities shall be governed by an agreement and by the professional confidentiality of these authorities.

With national authorities

Article 256. CSBF may proactively exchange significant and relevant information concerning insurance service providers and insurance sector with any other authorities at national level in the performance of its duties in accordance with the provisions of the law in force on personal data protection.

Article 257. CSBF may also, in this context, enter into direct contact with any other entities if it deems it useful.

In case of emergency, CSBF shall alert all competent authorities of any event that may threaten financial system strength and stability of the, in order to ensure coordination and transparency.

With supervisory counterparts abroad

Article 258. CSBF may proactively exchange significant and relevant information on IUs and conduct joint audits of IUs with its foreign counterparts within the scope of its duties. Information exchange and joint controls may take place as early as the application phase, during the supervision or crisis resolution and liquidation phases.

CSBF shall ensure that cooperation, information exchange and consultations between the supervisory authorities take place in accordance with the agreement provided for in Article 255 of this Law.

Where the activities of an IU could affect its financial strength, CSBF shall inform the supervisory authority of the home country of the company.

In accordance with the cooperation agreements, CSBF may request its foreign counterparts to take restrictive or prohibitive measures with regard to the assets of the IU concerned located on their territory, where the IU is in breach of prudential requirements or is subject to authorisation withdrawal.

7. Injunctions

Article 259. Should insurance service providers fail to comply with the regulations applicable to them or behave in a manner that jeopardizes the performance of their commitments to policyholders, CSBF may order the company concerned to take, within a

time limit that it shall determine, one or more of the remedial measures provided for in Article 358 of this Law and any other measures deemed useful to ensure policyholders protection or insurance sector stability. If the injunction is not complied with, CSBF may impose one of the disciplinary sanctions provided for in Article 272 of this Law.

CSBF may also enjoin insurance service providers to stop any dangerous or hazardous practices that could harm the interests of the insured.

Subsection 2. Permanent control

1. Periodic controls

Article 260. CSBF shall carry out permanent control of insurance service providers on the basis of documents and information provided by them in accordance with the terms and conditions laid down by CSBF. In particular, it shall be responsible for:

1. collecting regular, consistent and exhaustive statistical and financial information or any reports concerning these insurance service providers;
2. verifying compliance with prudential rules and management standards applicable to insurance service providers, such as capital, solvency, liquidity, technical reserves, valuation of assets and liabilities, investment rules, accounting standards and the system of governance and control defined by CSBF instruction;
3. verifying compliance with anti-money laundering regulations;
4. monitoring relationships between insurance service providers;
5. receiving information on outsourced functions;
6. examining any significant changes that may affect the insurance service providers' situation;
7. analysing insurance service providers' periodic reports on consumer protection, fraud and cybercrime;
8. carrying out any other checks necessary for the performance of its duties.

2. Crisis prevention

Generalities

Article 261. CSBF shall put in place any preventive mechanism to identify or detect at an early stage the IU fragility or the deterioration of their financial situation and to verify the effectiveness of the measures applicable to remedy the situation. CSBF establishes an annual supervision plan based on IUs' risk profile.

It examines and assesses:

- the adequacy of methods and practices implemented by the IUs to detect possible hazards or changes in economic conditions that could have an adverse impact on the overall financial situation of the company concerned;
- IUs' ability to overcome these possible hazards or changes.

CSBF is empowered to take any measures with regard to IUs, members of their administrative bodies, general management and the supervisory body if necessary for crisis prevention.

Preventive recovery plan

Article 262. CSBF shall ensure that, upon approval, a preventive recovery plan is prepared by each IU setting out agreed and acceptable steps to be taken to resolve the issues raised within an acceptable timeframe.

The plan shall include:

1. measures likely to be taken by the IU in any of the situations referred to in Article 358 of this Law;
2. appropriate terms and procedures to ensure a quick implementation of these measures;
3. exit scenarios according to the particularity of the IU, including if necessary a programme for strengthening capital base, solvency and liquidity;
4. and any elements to maintain or restore the IU viability and financial situation.

The preventive recovery plan is drawn up in accordance with the provisions defined by CSBF instruction.

CSBF shall periodically check whether the IU is complying with the said plan and shall order its modification when deficiencies are identified.

Where the IU belongs to a group, its preventive recovery plan shall take due account of the recovery plan drawn up at group level.

Triggering events for preventive measures

Article 263. CSBF may initiate the preventive measures provided for in Article 264 below if it deems that:

1. the IU does not comply, or is likely to fail to comply, with the provisions of the regulations applicable to it;
2. the IU financial situation is such as to jeopardise the proper performance of its commitments or does not sufficiently guarantee its solvency, liquidity or profitability;
3. the governance, management, administrative and accounting organisation or the internal control system of the IU are seriously deficient in relation to the regulations in force;
4. the IU situation would no longer provide sufficient securities to meet its commitments or that it would no longer be able to operate in accordance with the regulations in force.

Preventive measures

Article 264. When one of the terms referred to in Article 263 above arises, CSBF may issue an injunction to the IU to submit within a specified period of time any measures or action plan aimed at regularising its situation, restoring its financial situation, correcting its management methods, ensuring its organisation adequacy to its activities or its

development objectives. The measures envisioned must be accompanied by a provisional timetable for implementation.

In particular, CSBF is entitled to require the IU to implement one or more of the following measures depending on the situation urgency and seriousness:

1. implementation of one or more of the measures mentioned in the preventive recovery plan provided for in Article 262 of this Law and the updating of the said plan if the IU's current situation has changed in relation to the assumptions made in the initial plan;
2. presentation of an emergency recovery plan to ensure compliance with regulatory requirements or to overcome identified difficulties;
3. strengthening the capital base to a level that is adequate for the level of existing and projected risks, including carrying forward all or part of net profits;
4. taking prompt action to improve governance, internal control and risk management systems and procedures;
5. modification to business plan or strategy if it is not supported by appropriate organisational, control and risk management arrangements and adequate planning in terms of financial, human and technological resources;
6. limitation or temporary cessation of certain activities or operations that excessively compromise IU's strength;
7. prompt or additional provisioning of assets of doubtful quality;
8. replacement of members of the Board of Directors and the Executive Board or reducing their powers.

CSBF shall at all times verify compliance with the measures imposed on the IU.

Article 265. Where the IU belongs to a group defined in Article 4 of this Law, CSBF shall inform any other authority with a jurisdiction over an entity of the group before taking any measure which may affect the group or its entities.

IUs' governance system audit

Article 266. CSBF shall have the appropriate means, methods and powers to audit IUs' governance system, assess the risks that may affect their strength and take all necessary measures to require the government system improvement or strengthening in accordance with the requirements set out in Articles 287 to 296 of this Law.

Detection of fraud or embezzlement

Article 267. CSBF shall carry out the necessary controls or investigations in case of suspicion of fraud or embezzlement committed by one or more members of the Board of Directors, the general management and the supervisory body or by an employee of an IU or an IRI.

Subsection 3. On-site audits

Purpose of the audit

Article 268. On-site audits are complementary to permanent audits.
Its purpose is to:

1. assess compliance with the regulations governing insurance service providers and the terms of their licence or authorisation to operate;

2. ensure the reliability of the periodic declarations communicated by the IUs in relation to their actual situation;
3. confirm the analyses carried out at permanent audit level;
4. carry out any necessary investigation or more in-depth diagnosis of the audited IU overall situation, its management quality , including governance, internal control effectiveness, risk management and bookkeeping.

CSBF General Secretariat conducts on-site inspections at the premises of insurance service providers.

Free access of CSBF General Secretariat and reports of the on-site audits

Article 269. CSBF General Secretariat has free access to all reports, documents, correspondence or information, regardless of the medium, necessary for the performance of its duty with the IU. It may also obtain an electronic version copy.

IUs shall make available to CSBF Secretariat General qualified personnel to provide it with the information required by the audit operation.

CSBF discusses with IUs the relevant findings of the on-site audits and the need for preventive action if necessary.

On-site audit reports are communicated to the administrative bodies, the senior management and the auditor of the IUs concerned. They are subject of a special deliberation by the administrative body of these companies.

These reports shall indicate, in particular, the measures envisioned to rectify the shortcomings noted and the timeframe for implementing these measures. A certified copy of the said resolution is sent to CSBF Secretariat General and to the IU supervisory bodies of under the conditions and in accordance with the terms and conditions laid down by CSBF.

CSBF verifies the implementation of the required measures.

Subsection 4. Consolidated supervision

Article 270. CSBF shall carry out consolidated audit when the IU belongs to a group as defined in Article 4 of this Law. The audit may be extended to the IU's subsidiaries.

CSBF may request from the IU any information concerning the said group or the entities of the group. IUs shall promptly inform CSBF of any anomalies or events in the activity of the group or its entities which may jeopardise their situation.

CSBF may carry out cross-border supervision of the entities of a group within the framework of a cooperation agreement with its counterpart supervisors of the IUs abroad as provided for in Article 255 of this Law.

Section 4. Disciplinary authority

Subsection 1: Generalities

Article 271. CSBF shall impose one or more of the disciplinary sanctions provided for in Article 272 below on insurance service providers for failure to comply with the provisions of this Law and its subsequent laws, including:

1. failure to fulfil the conditions required for authorisation, prior authorisation and preventive measures;
2. failure to comply with an injunction or warning;
3. irregularities in reporting obligations and the provision of information;
4. failure to comply with the provisions of this Law and its subsequent texts;
5. any behaviour likely to jeopardise the strong and prudent management of insurance service providers.

Subsection 2. Disciplinary sanctions range

Disciplinary sanctions

Article 272. CSBF shall impose one or more of the following disciplinary sanctions depending on the seriousness of the breach:

1. against IU:
 - a) warning;
 - b) reprimand;
 - c) prohibition on offering new contracts;
 - d) authorisation withdrawal for new activities or acquisitions;
 - e) assets sequestration or assets disposal restriction;
 - f) prohibition on carrying out certain operations and any other limitations in the exercise of its activities;
 - g) automatic transfer of contract portfolio or partial or total transfer of the portfolio;
 - h) limitation on dividend distribution for the financial year under review;
 - i) dismissal of the persons in charge of general management;
 - j) suspension of the Board of Directors members;
 - k) withdrawal of the authorisation to appoint the auditor(s);
 - l) approval withdrawal;
2. against IU group:
 - a) suspension or dismissal of the directors of any company affiliated to the group;
3. against IUs
 - a) warning;
 - b) reprimand;

- c) ban on offering new contracts;
- d) prohibition on carrying out certain operations and any other limitations in the exercise of its activities;
- e) dismissal of directors for legal persons;
- f) withdrawal of the licence to operate. In this case, CSBF shall inform the Professional Association in order to withdraw the professional card for natural persons.

CSBF decision concerning the authorisation withdrawal to appoint the IUs' statutory auditor(s) takes immediate effect. The IU relevant body appoints a new auditor within the period set by CSBF and in accordance with the conditions set by CSBF.

In the event of withdrawal of the authorisation to appoint the IU auditor(s), the management body informs OECFM. The latter shall inform CSBF Chairman of the decisions taken against the auditor.

The auditor whose authorisation has been withdrawn may no longer perform the function of auditor within an IU for a period of six (6) years.

Financial penalties

Article 273. CSBF may impose financial penalties or penalty payments, either instead of or in addition to the sanctions provided for in Article 272 above. The amount and terms and conditions for implementing these financial penalties or periodic penalty payments are set by regulation.

Powers of CSBF Chairman

Article 274. CSBF Chairman may, in case of emergency, suspend members of the Board of Directors, the general management and the supervisory body, possibly accompanied by a financial penalty when this is justified by particular circumstances, in particular with regard to the facts that trigger the remedial measures provided for in Article 358 of this Law. It shall inform CSBF, which shall ratify or lift the suspension decision at its next meeting.

Information to the financial stability authority

Article 275. CSBF shall inform the financial stability authority of any disciplinary sanction taken against an IU.

Subsection 3. Procedures for imposing disciplinary sanctions

Article 276. When CSBF imposes a disciplinary sanction, the decision shall be preceded by an adversarial procedure, except in case of emergency. CSBF Chairman shall inform the association and the person concerned of the facts of which they are accused, fifteen (15) days before the date of CSBF meeting, by any means that leaves a written record addressed to the Board of Directors and to the general management of the association.

If the person concerned does not appear, duly summoned, CSBF decision shall be deemed to be adversarial.

CSBF decision is immediately notified to the IU's Board of Directors and general management, and is the subject of a special deliberation of the said Board within twenty (20) days of the notification. A true copy of this deliberation is sent to CSBF within fifteen (15) days of the Board meeting.

Decisions on disciplinary sanctions taken by CSBF and its Chairman may be appealed before the relevant administrative court.

The provisions of this section are applicable to IRIs.

TITLE X: PROFESSION REGULATION

CHAPTER 1. GENERAL PROVISIONS

Article 277. Any person who, in any capacity whatsoever, participates directly or indirectly in the administration, management or control of IUs or IRIs or is employed by them, is bound by professional confidentiality under penalty of the sanctions provided for by the Criminal Code.

Article 278. Any person who, in any capacity whatsoever, participates directly or indirectly in the administration, management or control of IUs or IRIs or is employed by them, is bound by professional confidentiality under penalty of the sanctions provided for by the Criminal Code.

Professional confidentiality may not be invoked against BFM, CSBF, the financial stability authority, any person mandated by them, any other entity acting in accordance with a specific regulation, or the judicial authority.

CHAPTER 2. APPLICABLE RULES AND STANDARDS

Section. Legal form - minimum capital

Subsection 1. Legal status

Article 279. IUs approved as insurance and reinsurance companies are incorporated in the form of a multi-person limited company governed by the law on commercial companies.

The IUs approved as mutual insurance companies are established as mutual insurance companies governed by this Law and its articles.

Subsection 2. Minimum share capital

Article 280. Insurance and reinsurance companies shall have, on the day of their incorporation, a fully paid-up share capital whose minimum amount shall be determined

by decree, upon CSBF proposal. This amount may vary according to the operations authorised.

IUs' shares are registered to enable their shareholders or member-policyholders to be identified at any time.

Mutual insurance companies are required to set up an establishment fund, whose minimum amount is set by decree, upon CSBF proposal. No minimum threshold is required for the establishment fund of local or professional mutual insurance companies provided for in Article 198 of this Law.

Branches of foreign reinsurance companies must have a fully paid-up capital endowment, whose minimum amount is set by decree, upon CSBF proposal.

Section 2. Management rules

Subsection 1: Generalities

Article 281. IUs shall be subject to management rules set out in CSBF's instructions, which aim in particular to:

1. strengthen governance and control;
2. set up a risk management system;
3. ensure transparency of operations and the regularity of their accounting records;
4. ensure consumer protection, fight against fraud, money laundering, terrorist financing and cyber security.

Subsection 2. Governance and control system

1. Generalities

Article 282. IUs shall put in place an effective system of governance, control and risk management which ensures strong and prudent management of their business and promotes consumer protection. This system shall be subject to regular internal review. It includes policies or strategies, processes and reporting procedures needed to identify, measure, control, manage and report, on an ongoing basis, the risks at individual and aggregate levels to which IUs are or may be exposed.

These policies address the following principles of good governance:

1. risk prevention and management according to the business nature and operation scale and complexity;
2. clear allocation and proper separation of management and control responsibilities;
3. control system independence and effectiveness;
4. financial information transparency.

2. Ethical rules on governance and internal audit

Article 283. The Board of Directors, the general management and the internal audit body are subject to ethical rules respect, which are specified in a code of ethics and

deontology approved by CSBF.

They shall:

1. act honestly, in good faith, reasonably and in the interests of policyholders and consumers;
2. perform their duties faithfully and diligently;
3. exercise independent judgment and objectivity in making decisions;
4. refrain from taking or using their position to gain undue personal advantage or cause harm to policyholders.

IUs shall put in place an internal mechanism for detecting, reporting and sanctioning non-compliance with the code of ethics and professional conduct, which shall include procedures to be followed by the members of the Board of Directors, the executive management, the supervisory body and the staff for any non-compliance found within the IUs.

IUs shall ensure that articles of association, internal rules and internal procedures manuals include mechanisms to sanction members of the governance and control structures who have committed acts detrimental to the IU.

3. Warning mechanism

Article 284. IUs are required to set up a warning mechanism, through which members of the Board of Directors, the general management, the supervisory body, the actuaries and the staff of IUs may denounce:

- any act detrimental to the IU or to policyholders' interests;
- any infringement to the regulations applicable to IUs;
- any criminal act, fraud or dishonest conduct within the IU or the IRIs.

Any person receiving the warning shall guarantee the strict confidentiality concerning the identity of any person making the alert and of the information gathered within this framework, under the application of the penalties provided for in Article 430 of this Law. Information enabling the warning to be identified, may only be disclosed with his consent.

4. Incompatibilities

Article 285. General management members may not hold office as members of the Board of Directors, the general management or the internal audit body in any other company.

5. Civil liability

Article 286. The members of the Board of Directors, the general management and the supervisory body are liable to IU and third parties for the harmful consequences of faults, negligence or malpractice they commit in when carrying out their duties. The liability action shall become void after five (5) years from the harmful event date or from the date of its knowledge if it was concealed.

6. Governance and control structures

Core structures and functions

Article 287. CSBF shall establish by instruction the composition, operation and powers of the governance and supervisory structures, the terms for the appointment of their respective members and all officers. CSBF Chairman may object to the appointment of any person who does not meet the terms so determined by CSBF.

The essential functions to be set up within the IUs are specified by CSBF instruction, which includes risk management function, compliance function, internal audit function and actuarial function.

The actuarial function may be performed by an internal actuary. By way of derogation from the establishment of an internal actuarial function, IUs may appoint an external actuary or independent actuary.

Board of Directors

Article 288. The Board of Directors of an IU shall include at least:

- one member representing the minority shareholders under the terms set by CSBF instruction;
- one independent director as defined in Article 4 of this Law.

IUs may request a waiver from the obligation to appoint an independent director under the terms set by CSBF instruction.

Article 289. The independent director is appointed as a member of the Board of Directors for his expertise in insurance, banking, finance, law, economics, auditing, accounting and taxation.

The General Assembly shall dismiss the director concerned if the independence requirement is not complied with.

Directorate-General

Article 290. The IU general management is ensured by at least two (2) corporate officers, who must be natural persons resident in Madagascar and responsible for determining the overall management of the institution activities.

IUs shall ensure that they have an internal policy for the development of national skills so that the latter can be designated as managers within the meaning of the previous Paragraph.

The general management of a foreign reinsurance branch company is carried out by a general agent, who is a natural person who must be resident in Madagascar.

External audit body

Article 291. IUs' financial statements are audited by an auditor, who may be a natural person or a legal entity, in accordance with the provisions of the Law on commercial companies.

However, the intervention of two (2) auditors, at least one of whom is registered with the OECFM, is required when the balance sheet total of an IU reaches a threshold set by CSBF instruction. These auditors may not belong to the same group.

The IU may appoint the auditor for two consecutive terms. A break of six (6) years is observed at the expiration of the second term of office within the same IU.

Article 292. The auditors shall certify the IUs' annual financial statements, under the conditions set by the regulations on commercial companies.

CSBF shall establish by instruction:

- the conditions of appointment and the scope of the auditor's duty;
- the auditor's specific duties, required skills and experience.

Article 293. CSFB General Secretariat may request from the auditors any information on the IU's activity and financial situation. It may also summon the auditors if necessary or send them written observations. The auditors are then required to provide answers in the same form.

Article 294. The auditor may not practice with an IU if he has any interest in the IU or in an entity of the group to which the IU belongs, except in his capacity as a client benefitting from the IU offers under normal operating conditions.

Article 295. The auditors' special report provided for in the regulations governing commercial companies, must contain, in addition to the information provided for in this Law, an indication of the amounts paid to directors and officers as remuneration or commission for the insurance and capitalization contracts subscribed to by their IRI.

Independent actuary

Article 296. When IUs conduct life insurance business, they must appoint an independent actuary to certify the work of the internal or external actuary provided for in Article 287 of this Law. The conditions for the appointment and the scope of the independent actuary's mission shall be defined by CSBF instruction.

Subsection 3. Information and management system

Article 297. IUs shall set up an information and management system to:

- collect, store, use, disseminate, preserve the integrity and ensure the reliability of data in accordance with CSBF audit requirements;
- ensure the production, communication and publication of information and documents

required by CSBF and any other competent authorities.

IUs subscribe to the information system established at the national level for the needs of the insurance sector in which the financial services providers are participants, reporters or users as the case may be.

Section 3. Prudential rules

Subsection 1: Generalities

Article 298. The IUs shall comply with the prudential rules, in particular those relating to own funds, solvency and liquidity, set by CSBF instruction.

CSBF Chairman may require an IU to comply with more stringent prudential requirements, in particular those relating to own funds, solvency and liquidity, depending on the nature and complexity of the IU's business or the level of risks it faces, if he deems that the situation of the IU so requires or when it may give rise to a systemic risk as defined in Article 4 of this Law.

Subsection 2. Undertakings' solvency

Article 299. IUs shall at all times prove the existence of the own funds necessary for the activity of the IU and group of IUs.

The minimum amount, the constituent elements and the calculation methods of the own funds shall be determined by CSBF instruction.

Financing and recovery plan requirements

Article 300. Where CSBF finds that the IUs' equity capital no longer complies with a regulatory threshold set by CSBF instruction, it shall request the IU concerned to submit to its approval:

- a short-term financing plan that specifies the measures to be taken to reconstitute the equity capital, including an increase in the share capital or the establishment fund under the conditions set by CSBF;
- a long-term recovery plan.

CSBF requires the IU concerned to take all necessary measures to re-establish, within a time limit set by CSBF, the required level of own funds or to reduce its risk profile in order to ensure its solvency.

In case of refusal to present or execute a financing plan, CSBF Chairman may issue an injunction to the IU. If necessary, CSBF will impose one of the disciplinary sanctions provided for in Article 272 of this Law.

Subsection 3. Regulated commitments

Article 301. The following shall be determined by CSBF instruction:

- rules relating to regulated commitments or technical reserves as defined in Article 4 of this Law;
- the conditions for the constitution, valuation and representation of technical reserves.

Subsection 4: Investments

Article 302. IUs are subject to the prudent person principle in relation to investments. They shall establish an investment strategy, which may be objected to by CSBF. The latter lays down the rules governing these investments in an instruction.

IUs must have sufficiently secure and diversified investments to meet their commitments to the insured.

Section 4. Rules on reinsurance

Article 303. Reinsurance companies shall establish strategies that take into account the nature, scale, and complexity of their activities and a reinsurance plan approved by CSBF. They carry out reinsurance operations under the conditions and in accordance with the procedures laid down by CSBF.

CSBF verifies the implementation of these strategies, the reinsurance plan and the risk transfer transparency.

Section 5. Transfer of the portfolio of contracts

Subsection 1: Generalities

Article 304. An IU portfolio may be transferred in part or in full with CSBF prior approval.

CSBF shall ensure that the interests of the policyholders, the transferor and the transferee are protected during the transfer of insurance contract portfolio. The terms and conditions for the IUs to implement this operation and its effects are set by decree, on CSBF proposal.

Subsection 2. Voluntary transfer

Article 305. The IUs may, with CSBF prior authorisation, transfer their contract portfolio with its rights and obligations to one or more IUs.

CSBF shall issue an instruction setting out the terms and conditions and effects of the portfolio transfer operation.

Subsection 3. Automatic transfer

Article 306. CSBF may, by way of disciplinary sanction, remedial measure or resolution provided for in Articles 272, 358 and 367 of this Law, impose on an IU the compulsory transfer of part or its entire portfolio of insurance contracts where the voluntary transfer has not been successful.

CSBF shall issue an instruction setting out the terms and conditions and effects of the portfolio transfer.

The decision ordering the transfer sets out the terms and conditions and the date on which it takes effect.

Section 6. Tariff

Subsection 1. Generalities

Article 307. IUs shall determine their tariffs based on actuarial methods and according to their own statistics.

The following shall be laid down by CSBF instruction:

- terms and conditions of communication concerning the aforementioned statistical data;
- components of the premium or contribution rates.

Premiums or contributions must be sufficient to enable the IU to meet all its obligations, and in particular to establish adequate technical reserves in accordance with the provisions of Article 301 of this Law.

In the case of life insurance, a decree proposed by CSBF sets:

- the mortality tables as basis for determining rates;
- the limits of the charges used for the tariffs;
- the method for calculating mathematical provisions.

Life insurance tariffs must be certified by an independent actuary provided for in Article 296 of this Law.

IUs may apply a deductible as defined in Article 4 of this Law under the conditions set by CSBF.

CSBF may ask IUs to provide it with their current tariff. CSBF shall verify the terms and conditions for determining the tariffs of all the IUs products in accordance with the data provided for in the first Paragraph of this Article.

Subsection 2. Tariff of new products

Article 308. IUs must notify CSBF of any plans to sell new insurance products, together with the components of such tariff.

Subsection 3. Increase in tariffs

Article 309. Where the rates charged by IUs are inadequate to the risks insured or the IU situation is likely to deteriorate due, in whole or in part, to the inadequacy of the rates charged, CSBF may order the IU to increase the rates applied.

Section 7. Outsourcing of activities or functions

Article 310. IUs may outsource or subcontract part of the activities or functions upon prior CSBF authorisation. IUs shall remain fully responsible for complying with their obligations in relation to the outsourced functions or activities in accordance with the conditions laid down by CSBF.

However, they may not outsource important or essential operational activities or functions where this would, inter alia:

1. seriously compromise the quality of the undertaking concerned 's governance system;
2. increase the IU risk;
3. jeopardise CSBF ability to verify the IU compliance with its obligations;
4. adversely affect the quality of the services provided by the IU.

IUs shall ensure that:

1. providers of outsourced activities or functions cooperate with CSBF;
2. the IU, the auditor and CSBF have access to data relating to the outsourced activities or functions;
3. CSBF or any person appointed by it has effective access to the service provider 's premises within the framework of the on-site audit;
4. the outsourcing does not compromise the quality of the company concerned 's governance system and does not increase the risk;
5. CSBF is informed in advance and in a timely manner of any subsequent significant developments concerning these outsourced activities or functions.

CHAPTER 3. ACCOUNTING RULES - REPORTING AND STATISTICAL OBLIGATIONS

Section 1. Accounting rules

Article 311. Financial institutions shall comply with the accounting rules and regulations issued by CSBF and submitted to the Accounting Authority for approval.

CSBF shall update the said regulations by means of an instruction.

Section 2. Reporting obligations

Article 312. Insurance service providers are required to provide CSBF with any information or documents enabling CSBF to conduct effective supervision and evaluation of the insurance market in accordance with the terms and conditions set by CSBF

instruction.

CSBF will collect all information enabling it to monitor activity, evaluate and verify compliance with management, prudential and accounting rules, consumer protection, and the fight against fraud, cyber risk, money laundering and terrorism financing.

Insurance service providers must put in place appropriate structures and systems to meet CSBF's requirements, as well as a written policy, approved by the Board of Directors, to ensure the ongoing adequacy, consistency and reliability of reporting.

CSBF may require insurance service providers to report or disclose any information such as:

1. financial statements;
2. regular, consistent and complete statistical and financial information;
3. information concerning all entities of the insurance group;
4. management, solvency, actuarial and expert reports;
5. risk exposure by business nature and size;
6. significant changes that may affect their position;
7. outsourced functions;
8. any aggregated information on approved IUs.

Section 3. Financial transparency

Article 313. IUs and branches of foreign reinsurance undertakings are required to publish their financial statements and the auditors' report in accordance with the procedures specified by CSBF instruction.

They shall publish, on an individual or a consolidated basis if they are part of an insurance group, information reflecting, in particular, their financial situation in accordance with the procedures laid down by CSBF.

CSBF may order IUs and branches of foreign reinsurance undertakings to make corrective disclosures in the event that inaccuracies or omissions are found.

At the end of each financial year, the Board of Directors shall draw up a solvency report indicating in particular:

1. the conditions under which the IU guarantees its commitments by the constitution of sufficient technical reserves provided for in Article 301 of this Law;
2. the investment guidelines;
3. an analysis of the results obtained;
4. an analysis of the conditions under which the IU is able, in the medium and long term, to meet all its commitments.

The solvency report referred to in the previous paragraph shall be communicated to statutory auditors and to CSBF. The said report shall be certified by the independent

actuary for IUs carrying out life insurance operations.

Section 4. Statistical rules

Article 314. IUs shall draw up their own statistics useful for assessing risks and determining rates.

These statistics shall be drawn up in accordance with the following rules in order to form the basis of the insurance business rational operation. They shall relate in particular to:

- sufficiently homogeneous and dispersed risks as defined in Article 4 of this Law;
- risks that occur frequently enough to allow a probability law to be identified.

CSBF is authorised to collect statistics from IUs and to publish aggregate statistics.

CHAPTER 4. CONSUMER PROTECTION

Section 1. CSBF - Insurance Services Consumer Protection Authority

Article 315. CSBF is the authority responsible for promoting transparency, simplicity and fairness in the markets for insurance products and services.

In particular, it shall be responsible for drawing up rules on the protection of insurance service consumers.

CSBF shall collaborate with the professional associations provided for in Articles 344 and 347 of this Law in promoting the protection of insurance consumers.

Section 2. Ethical rules

Article 316. IUs and IRIs are subject to compliance with ethical rules in the field of consumer protection under the conditions defined by CSBF instruction, which are aimed in particular at:

1. the respectful and fair treatment of consumers;
2. a product offer that is not misleading and is adapted to the consumers' needs;
3. freedom of informed choice for customers on the insurance services offered;
4. the provision of clear and accurate information;
5. the duty to provide appropriate advice before entering into the insurance contract;
6. the exercise of the right to rectification of any inaccurate information;
7. the exercise of withdrawal right provided for in Article 47 of this Law;
8. processing claims and complaints in a timely manner;

IUs and IRIs shall be obliged to set up a continuous training programme for their staff and distribution agents in the area of consumer protection in accordance with the conditions laid down by CSBF.

Section 3. Transparency principles

Article 317. IUs and IRIs shall apply information transparency and behave fairly towards the insured with regard to consumer protection.

Sous-section 1. Information documents

Article 318. Insurance service providers shall make standardised information documents provided for in CSBF instructions available to consumers free of charge before they enter into a contract or take out an insurance service.

CSBF instruction shall in particular lay down the characteristics, delivery procedures and content of the information documents made available to consumers.

The insurance policy dated and validated by the policyholder must mention at the bottom of the policy that the documents provided for in this Article have been delivered in advance by the IU.

Subsection 2. Products and services

Article 319. Insurance service providers shall be obliged to inform customers of the characteristics of the insurance products and services offered. They shall be obliged to offer insurance products tailored to the customers' needs.

IUs, branches of foreign reinsurance companies shall make available to their customers or publish on their respective websites model contracts under the conditions set by CSBF instruction.

Subsection 3. Communication between the IU and the insured

Article 320. The essential elements of transparent communication between the parties during their contractual relationship are determined by CSBF instruction.

Subsection 4. Tariffs

Article 321. IUs and IRIs shall make available to their clients and publish on their respective websites the tariffs of the products or services offered in accordance with the terms and conditions laid down by CSBF.

For mutual insurance companies with variable contributions, the amount of the premium or contribution shall be indicated on the contracts issued to their members.

Section 4. Pre-contractual process

Subsection 1: Contractual documents, advertising

Article 322. CSBF General Secretariat may require the communication of documents of a contractual or advertising nature. If a document is contrary to the regulations in force, CSBF General Secretariat shall require its amendment or decide to withdraw it in accordance with the conditions laid down by CSBF instruction.

Subsection 2. Duty to advise

Article 323. At the clients' request, insurance service providers shall be obliged to provide them with appropriate advice.

Any offer of insurance services must be accompanied by reasoned advice, by any means that leaves a written record, taking into account the needs and requirements expressed by the client and adapted to his financial situation, underwriting objectives, knowledge and experience in terms of finances.

Insurance service providers shall have to inform potential policyholders of their option to use the services of experts to value the insured assets.

Subsection 3. Personal data

Article 324. Insurance service providers are required to respect the confidentiality of customers' personal data while ensuring their protection and storage in accordance with the regulations in force. ISPs shall put in place appropriate policies and procedures relating thereto.

Section 5. After-sales activities

Article 325. Insurance service providers must provide appropriate after-sales activities of insurance policies to customers.

They shall have policies and procedures for handling claims, complaints and protection of personal the insured data, as determined by CSBF.

Insurance service providers shall be obliged to inform the insured persons by any means that leaves a written record of any contractual changes and other relevant information related to the insurance product during the term of the contract.

The components, basis of determination and regulatory references of policyholders' compensation should be clearly and accurately set out in any related documents provided to policyholders.

Where IUs settle with victims, the settlement is enforceable against the perpetrator of the damage.

Insured persons acting in good faith may request reimbursement of premiums or contributions where IUs have proposed to insure prohibited operations provided for in Articles 408 and 409 of this Law.

Section 6. Digital insurance operations

Article 326. IUs shall inform the public in a clear, precise and comprehensible way in the electronic insurance contract that the service provided is exclusively electronic.

Where a signature is required, it may be affixed by any means in accordance with the regulations on electronic signatures.

IUs shall provide the policyholder with a dedicated space where he can access the information and documents required within the framework of the commercial relationship.

IUs guarantee the accessibility of the information and documents stored in this space for a period of time appropriate to their purpose. For pre-contractual, contractual and transactional documents, this period may not be less than five (5) years after the end of the contractual relationship.

Section 7. Insurance intermediaries

Subsection 1: Information to be provided

Article 327. During the pre-contractual phase, the IRI shall provide any prospective policyholder with the following information:

1. the status and legal nature of its relationship with the IU;
2. the identity or name, registration number in the list of IRIs maintained by CSBF;
3. the existence of financial links with one or more IUs or the existence of an exclusivity clause;
4. procedures for appeals and complaints by insurance policyholders.

In all cases, the IRI shall be obliged to inform the policyholder of any change in the information mentioned in the previous paragraph.

Subsection 2. Premiums or contributions and compensation

Article 328. Premiums or contributions paid by the insured to an IRI are deemed as paid to the IU under an insurance contract. The terms and conditions for paying premiums or contributions to IUs shall be laid down in the contract between IUs and IRIs.

Money paid to the IRI by the IU for the benefit of the insured is only considered to be paid when the insured has actually received it.

These funds must be transferred to strictly segregated client accounts which may not be used for other purposes.

Section 8. Appeal mechanisms

Article 329. IUs shall define a complaint management policy and set up an internal function responsible for recording, managing and processing customer complaints effectively, promptly and fairly in accordance with the procedures laid down by CSBF instruction.

A CSBF instruction sets out in particular:

- the terms and conditions for communicating information on consumer complaints to

- CSBF by IUs;
- the conditions of publication of the said information.

Section 9. Right to insurance

Article 330. Any person who is subject to compulsory insurance may appeal to CSBF if he has been refused an insurance contract with an insurance undertaking to cover the risks associated with this insurance obligation.

The IU that refuses the proposed risk cover must issue a certificate of refusal.

CSBF shall decide and notify the person concerned of the designated IU identity within fifteen (15) days of the referral. A copy of the notification is sent to the IU concerned. The General Secretariat keeps an updated list of the persons concerned by this referral.

Any person requesting CSBF intervention is required to provide it with all the information it needs to take a decision.

Section 10. Liability of IUs towards their clients

Article 331. IUs are liable to their customers and third parties for any act carried out by their IRIs, distribution channels and employees in the normal exercise of their duties.

IUs shall bear the costs incurred in defending their employees in the event of legal proceedings, except for agents who have committed misconduct or breaches of discipline.

If misconduct is established during the course of an investigation, the staff members at fault are liable for the reimbursement of the costs incurred by the IU in their defence.

Section 11. Association for the protection of insured persons

Article 332. In accordance with the regulations on the security and protection of consumers, consumers may form an association.

The articles of the association shall determine, inter alia, the conditions for membership, its operation, organisation and resources. The Association shall provide CSBF with a copy of its articles of association.

Within the framework of its tasks, this association may in particular:

1. defend the interests of insurance services consumers' interests;
2. take legal action for the purpose of:
 - bringing civil proceedings for acts directly or indirectly prejudicial to the interests of consumers of insurance services;
 - order the cessation of unlawful conduct or the removal of an unlawful or unfair term;

- request the application of legal provisions in force favourable to the consumer protection when the initial request is for compensation for damage suffered by one or more consumers;
- 3. alert IUs of any breach of consumer protection rules by their IRIs, distribution channels and employees, and inform IUs' professional association and CSBF General Secretariat;
- 4. participate in the financial education of citizens;
- 5. inform CSBF Chairman in case of illegal exercise of insurance services.

Section 12. Inclusion and financial education

Article 333. IUs contribute to the implementation of the national strategy or any national programme on financial inclusion and financial education. They shall provide all quantitative and qualitative information needed to monitor financial inclusion in Madagascar. The implementation of this provision is determined by CSBF instruction.

CHAPTER 5. COMPETITION

Article 334. IUs and IRIs shall take the steps needed to comply with the competition regulations.

Without prejudice to the provisions of the Law on Competition, the CSBF Chairman shall refer the matter to the competent authority provided for in the regulations in force if CSBF considers that an IU or IRI is infringing the legal or regulatory provisions on the subject.

CSBF shall impose one of the disciplinary sanctions provided for in Article 272 of this Law based on the decision of the competent authority provided for in the previous paragraph.

In accordance with the provisions on refusal to sell and abuse of economic dependence provided for in the competition regulations, any company providing technical solutions, any operator running a telecommunications network or providing a telecommunication service may not:

1. refuse to provide their services to insurance service providers offering digital insurance products;
2. exploit abusively the state of economic dependence in which a customer IU finds itself if it does not have an equivalent solution or telecommunication network within the framework of offering digital insurance products;
3. set discriminatory conditions in their relationship with insurance service providers;
4. use information from insurance service providers for other purposes not provided for in their contract.

The contract entered into between IUs and undertakings referred to in the previous paragraph shall contain clauses aimed at ensuring fair and healthy competition and avoiding any form of monopoly.

CHAPTER 6. COMBATING INSURANCE FRAUD

Section 1. Generalities

Subsection 1. Insurance fraud

Article 335. Insurance fraud is the act by which a person intentionally acts with the intention of deceiving the IU in order to obtain an illegitimate profit from an insurance contract.

The fraud can take place at the time of the subscription, at the time of disaster declaration and concern all branches of insurance activities provided for in Article 5 of this Law.

Fraud can be understood, at the time of underwriting, as the intentional underestimation or overestimation of the risk or the fact of insuring a risk on which a claim has already occurred at the time of underwriting. It consists in a false risk declaration.

At the time of the claim declaration, fraud is characterised by any intentional act with a view to declaring, presenting or provoking in particular:

1. a false claim or a claim that did not take place;
2. damage unrelated to the declared loss;
3. an exaggerated claim in order to obtain a higher reimbursement than the damage;
4. an intentionally provoked claim;
5. false invoices when claiming reimbursement;
6. a change in the object of the risk;
7. inaccurate information;
8. invoicing for services not provided;
9. creation of false documents or false expert reports.

Subsection 2: Financial infrastructure

Article 336. UIs shall be required to join any financial infrastructure set up at national level to detect and prevent fraud in accordance with the terms and conditions laid down by the regulations governing the creation of such infrastructure.

Section 2. Mechanism for combating fraud

Article 337. Financial intermediaries shall have an internal system for preventing, detecting and managing insurance fraud in accordance with the conditions set by CSBF.

CSBF regularly reviews the effectiveness of the measures taken by IUs to deter, prevent, detect, report and remedy fraud and assesses the potential fraud risks for the insurance sector. It requires IUs to be aware of their risk exposures and compels them to take effective measures to address them.

CSBF shall take all actions needed to strengthen the effectiveness of the system in place.

CSBF should have effective mechanisms to cooperate, coordinate and exchange information with other relevant authorities, including law enforcement, judicial authorities and other supervisors, in the development and implementation of policies and activities to deter, prevent, detect and report insurance fraud.

CHAPTER 7. COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

Article 338. Financial intermediaries shall comply with the regulations on the fight against money laundering and terrorist financing.

IUs and IRIs must:

1. establish an internal system for preventing and combating money laundering and terrorist financing in accordance with the conditions laid down by CSBF instruction;
2. establish a training programme for their staff and distribution agents in the fight against money laundering and terrorist financing;
3. adopt an appropriate risk-based due diligence measure according to the customer's profile and activities and the nature of the transactions;
4. identify and retain all information relating to beneficial owners and transactions in accordance with the regulations set out in the first paragraph above.

CSBF may take any measure needed to ensure IUs and IRIs' compliance with the relevant regulations and to improve the effectiveness of the measures taken by IUs and IRIs.

Without prejudice to the administrative and/or financial sanctions imposed by CSBF on the IUs and IRIs concerned, any breach of the regulations referred to in paragraph 1 above shall engage the personal responsibility of the perpetrator and shall be prosecuted in accordance with the regulations in force.

CHAPTER 8. CYBERSECURITY

Article 339. IUs and IRIs shall comply with the regulations in force on cybersecurity. CSBF shall issue instructions on how to prevent, manage and mitigate cyber risks in the insurance sector.

CSBF shall ensure that IUs and IRIs:

1. define a cybersecurity policy and strategy;
2. put in place any arrangements required to prevent, manage and mitigate cyber risks and a response and control framework that is timely, effective and appropriate to the nature of the IU and IRI's business;
3. define the roles of the Board of Directors, senior management and the internal control

body with regard to cyber security and establish ethical rules for them that are understandable to the members of these bodies;

4. develop and update a crisis management plan approved by the Board of Directors and CSBF.

Article 340. The principles and rules relating to the security of computer or telecommunications networks at the level of IUs and IRIs must comply with the standards issued by the national entity in charge of cyber security.

CHAPTER 9. RULES GOVERNING IU GROUPS

Section 1. Group governance system

Article 341. IUs shall ensure the existence of a system of governance which guarantees sound and prudent management of the business at group level and which is subject to regular internal review. The system of governance shall be based on a clear separation of responsibilities at group level and shall include an effective reporting system.

The system of governance is proportionate to the nature, scale and complexity of the Group's operations and includes, inter alia, the risk management, compliance, internal audit and actuarial functions.

Section 2. Risk management and internal control

Article 342. IUs shall develop written policies at group level relating, at least, to risk management, internal control and, where appropriate, the outsourcing of functions. They shall ensure that these policies are implemented.

The group-wide internal control and risk management systems should be applied consistently across the group.

Section 3. Recovery plan

Article 343. IUs shall take steps to ensure the continuity and regularity of their activities, including the preparation of recovery plans at group level. To this end, they shall implement appropriate and proportionate arrangements, resources and procedures.

TITLE XI: ORGANISATION OF THE PROFESSION

CHAPTER 1. PROFESSIONAL ASSOCIATION

Section 1. IU Professional Association

Subsection 1: Mission of the IUs Professional Association

Article 344. A IU professional association shall be established under the system of registered associations.

The mission of the Professional Association is to:

1. be a tool for consultation with its various partners, to study together the technical, fiscal and legal problems relating to the profession and find solutions in collaboration with the public authorities;
2. encourage cooperation between its members;
3. ensure the representation and defence of the collective interests of its members, in particular with the public authorities and various social circles, in all circumstances where joint action is necessary;
4. intervene in any legal proceedings in which an IU is a party and where it is deemed that the general interest of the profession is at stake;
5. draw up rules of ethics for the profession which provide in particular for IUs' obligations, staff members with regard to consumers, shareholders and public authorities and which aim to ensure in particular the practice of healthy competition, fight against fraud, money laundering and financing of terrorism. IUs that do not comply with the ethical rules shall be subject to the sanctions provided for in Article 272 of this Law;
6. ensure the members' training on the rules of ethics;
7. give its opinion and make any proposals or suggestions to CSBF concerning the regulations applicable to IUs;
8. participate in the drafting of regulations applicable to IUs;
9. identify entities that do not comply with the obligation to domicile insurance in Madagascar as provided for in Article 6 of this Law and inform CSBF Chairman of such entities;
10. identify entities illegally providing insurance services and inform CSBF Chairman;
11. compile common statistics from data collected from member IUs;
12. organise the initial or continuous professional training of the employees of IUs, IRIs and their employees;
13. draw up the technical specifications of insurance experts and damage commissioners authorised to work on behalf of IUs and keep the register of these latter up to date;
14. contribute to the public awareness and financial education provided for in Article 333 of this Law to promote access to insurance services;
15. participate in all actions useful to the organization and development of the insurance market in Madagascar and to the improvement of the productivity of insurance companies and the services provided to insured;
16. carry out, at the request of the public authorities or the insurance companies, all studies and undertake all actions to improve risk prevention of all kinds in order to reduce the frequency and severity of claims.

Subsection 2. Articles of associations and rules of procedure of the Professional Association of IUs

Article 345. The articles of association and internal rules of procedure of the Professional Association shall set, in particular, its constitution, composition, organisation and operation.

The draft articles of association and their amendment shall be submitted to CSBF

for guarantee before their approval by the General Assembly.

Subsection 3. Obligations of IUs

Article 346. Any professional association approved under Article 229 of this Law shall:

- join the Professional Association within three (3) months of the conditions precedent lifting to approval, under penalty of the application by CSBF of the financial penalties provided for in Article 273 of this Law;
- contribute to the operating costs in accordance with the decisions of the General Assembly;
- provide the Association with all statistical and technical information needed for the organisation of the insurance market.

The rules of ethics drawn up by the Professional Association and their amendment are submitted to CSBF approval. They are applicable to all member IUs as from the notification of the said approval by CSBF General Secretariat and are published on BFM website and/or on the Association's website.

The Professional Association shall prepare and send an annual activity report to CSBF and to the member IUs within three (3) months of the end of the financial year.

Section 2. Professional association of IRIs

Article 347. A professional association of IRIs provided for in Article 214 of this Law shall be established under the regime of registered associations.

The duty of the Professional Association of IRIs is, in particular to:

1. issue the IRIs' professional card;
2. ensure the representation and defence of the collective interests of its members, in particular with the public authorities;
3. intervene in any legal proceedings in which an IRI is a party and where it is deemed that the general interest of the profession is at stake;
4. draw up rules of ethics for the profession which provide in particular for the obligations of IRIs and their staff towards consumers, shareholders and public authorities and which aim at ensuring in particular the practice of healthy competition, fight against fraud, money laundering and financing of terrorism. IRIs which do not comply with the rules of ethics shall be subject to the sanctions provided for in Article 272 of this Law;
5. give its opinion and make any proposals or suggestions to CSBF concerning the regulations applicable to IUs.

The articles of association and internal rules of the Professional Association of IRIs shall determine in particular its constitution, composition, organisation and operation. The draft articles of association and their modification are submitted to CSBF for guarantee before their approval by the General Assembly.

CHAPTER 2. INSURANCE ACTUARIES

Section 1. Actuary's function

Article 348. An insurance actuary within the meaning of this Law is any person who normally performs an actuarial function as set by CSBF instruction, which sets out, inter alia:

- the conditions for the appointment of actuaries, such as administrative requirements, good repute and competence;
- the terms and conditions for registration and removal from the list of resident actuaries;
- the tasks and duties of actuaries.

CSBF may object to the appointment of any person who does not meet the conditions laid down by CSBF instruction.

Any natural or legal person residing in Madagascar and working as an insurance actuary must be registered on the list of actuaries maintained by the Professional Association of Actuaries provided for in Article 349 below.

The latter updates the list of actuaries and communicates it to CSBF, which ensures its publication on the BFM website.

Legal entities may only be included in the list of actuaries if the natural persons entrusted with the task of acting on their behalf meet the conditions set out in the instruction referred to in the first paragraph above.

Section 2. Professional Association of Actuaries

Article 349. Actuaries are required to form a Professional Association when their number registered in the list provided for in Article 348 paragraph 3 above reaches three (3). The draft articles of association and their modification are submitted to CSBF for guarantee before their approval by the General Assembly.

The Professional Association of Actuaries shall adopt rules of ethics approved by CSBF.

Except for specific legal provisions, actuaries practicing in fields other than insurance may become members of this association.

CHAPTER 3. INSURANCE EXPERTS AND DAMAGE COMMISSIONERS

Section 1. Registration and specifications

Article 350. Any person who is authorised to perform insurance adjusting or damage control services must be entered in the register maintained by the Professional Association of Adjusters provided for in Article 344 of this Law, subject to compliance with

the formalities and conditions of registration set forth in the specifications drawn up by the said Association and approved by CSBF.

The purpose of these specifications is to:

1. specify the conditions of inscription on this register, in particular the administrative conditions, worthiness, technical skills, appropriate diplomas required from the experts and damage commissioners;
2. determine the ethics, discipline, missions, attributions and standardization of the profession of these experts and damage commissioners;
3. determine the information that must be made public and the terms and conditions for the maintenance of the register by the Professional Association of Surveyors;
4. determine the procedures and sanctions to be taken in case of misconduct by experts or damage commissioners;
5. determine the conditions of exercise and deletion from the register.

Experts and damage commissioners shall perform their duties diligently and faithfully, in accordance with the customs and rules of the profession under the conditions set forth in the aforementioned specifications.

The general duty of insurance experts and damage commissioners is to:

- investigate, ascertain, determine the causes, nature, extent, evaluation of damages, losses to insured goods and damages to ships;
- recommend protective measures and damage prevention measures;
- draw up a report on all the damage and the methods of restoration.

The technical specifications set the deontology, discipline, terms of admission, exercise, striking off, duties, roles, in particular the standardization of the profession of insurance experts and damage commissioners.

Section 2. Use of sapiteur and foreign experts

Article 351. For any insurance expertise, the IU may call upon the services of:

1. a sapiteur provided for in the following paragraph, when the research, the determination of the causes, the nature, the extent, the evaluation of the damages or the losses require the competence of a specialist in a field which does not fall within the competence of the surveyors or damage commissioners registered in the register provided for in Article 350 paragraph 1 above;
2. a foreign expert or loss adjuster, when:
 - the damage or loss subject to the survey occurs or is located abroad or;
 - the policy involving the loss or damage is ceded under reinsurance for at least half of its commitments and contractually requires the involvement of an expert appointed by the reinsurer(s).

For the purposes of this Article, "sapiteur" refers to any qualified person or specialist in a specific field who has been appointed by the IU as an expert. Prior to carrying out his

duty, the sapiteur shall commit in writing to comply with the code of ethics applicable to experts. If the consultant acts on behalf of an expert registered in the register, he remains under the responsibility of the latter.

Section 3. Registration of legal persons

Article 352. Legal entities may only be entered in the register provided for in Article 350, Paragraph 1, above, if the natural persons entrusted with the task of carrying out the appraisal or damage control duty on their behalf meet the conditions for entry mentioned in the specifications provided for in Article 350 of this Law.

The register updated by the Professional Association of Adjusters after the insertion of new experts or commissioners is published on the website of BFM and the Professional Association of Adjusters. The said register contains in particular:

- the list of the specialties of the adjusters who may not be registered in more than two specialties;
- the registration of experts and damage commissioners by areas of intervention.

This updated register is freely accessible to the public.

Section 4. Penalties and removal from the register

Article 353. The procedures for sanctions in the event of misconduct as well as the conditions for removal from the register of insurance experts or damage commissioners who may operate on behalf of IUs shall be provided for in the specifications referred to in Article 350 of this Law.

Section 5. Appointment of a third expert

Article 354. Should any difference of opinion on the conclusions of the expert's report arise, the insurer's expert and the insured's expert shall appoint a third expert by mutual agreement. In this case, the three (3) experts shall work together. The decision will be made by a majority vote. The time limit for the IU to submit the offer of compensation shall be extended to a time limit set by decree, upon CSBF proposal.

In case of disagreement on the appointment of the third expert, the competent Court shall appoint the latter.

The fees of the third expert shall be borne equally by the two parties.

TITLE XII: TREATMENT OF INSURANCE COMPANIES IN DIFFICULTY

CHAPTER 1. REORGANISATION OF IU

Section 1. Generalities

Article 355. The provisions of this TITLE apply to distressed insurance companies, notwithstanding the provisions of the regulations on collective procedures for the

settlement of liabilities.

CSBF shall take reorganisation and resolution measures with respect to IUs in difficulty within the meaning of this Law in order to protect the contractual commitments of the insured.

Article 356. Members of the Board of Directors, the general management and the supervisory body who perform acts or take decisions in violation of the reorganization and resolution measures provided for in this chapter shall be jointly and severally liable for the resulting damage to the IU or to third parties.

Section 2. Remedies

Subsection 1. Conditions

Article 357. CSBF shall take remedial measures against IUs subject to its supervision in one or more of the following cases:

1. unwillingness to comply with CSBF injunction provided for in Article 259 of this Law or failure to perform the actions agreed with CSBF;
2. failure to comply with prudential requirements, including capital requirements;
3. solvency and liquidity;
4. existence of deficiencies in the governance structures, financial management, internal control systems and risk management of IUs that may affect the financial balance;
5. adoption of any behaviour that may jeopardize the performance of commitments made to policyholders.

CSBF may withdraw the authorisation without going through the recovery and resolution phases when the dissolution of the distressed IU does not entail a systemic risk as defined in Article 4 of this Law.

Subsection 2. Range of remedies

Article 358. CSBF may order IUs to implement, within a period of time to be determined by CSBF, one or more of the following remedial measures for the situation recovery:

1. On the IU
 - a) reducing the risk inherent to the activities and products;
 - b) limiting the development of agencies or distribution channels;
 - c) limiting or prohibiting the exercise or development of certain existing or new activities;
 - d) the disposal of its holdings, assets and liabilities;
 - e) requiring prior authorisation for any major investment;
 - f) the cessation of any act detrimental to the IU, the shareholders or the insured;
 - g) the prohibition of the transfer of business lines;
 - h) taking, within a given period of time, all measures intended in particular to improve

strategy, governance, the control system, the MIS, to reduce certain risks, to restore and strengthen its financial stability;

- i) the cessation of any anti-competitive practice provided for by competition regulations;
- j) increasing the prudential ratios provided for in Article 298 of this Law or the application of a provisioning policy to assets;
- k) the prompt recapitalization or improvement of prudential requirements cover;
- l) the convening, within the period it determines, of a shareholder's meeting, the agenda of which CSBF shall establish;
- m) the obligation to provide additional or more frequent information, including statements on prudential ratios;
- n) the blocking of assets provided for in Article 359 of this Law;
- o) increased ability to restore essential functions and activities representing a significant source of revenue or profit;
- p) suspension of payment of cash values or advances on life insurance contracts;
- q) submission of a recovery plan approved by the board of directors;

2. On shareholders

- a) partial or total suspension of rights, in particular voting rights;
- b) increase in capital and mobilization of additional equity capital defined by CSBF instruction;
- c) invitation of the IU's main shareholders to provide the financial support needed;
- d) total or partial setting aside of distributable profits and limitation or prohibition of any distribution of dividends or any payment to shareholders or holders of equity instruments;
- e) prohibition of remuneration of mutual company certificates for mutual insurance companies;
- f) the entry of new shareholders in the share capital;

3. On the Board of Directors, General Management and the Supervisory Body:

- a) the injunction to replace the person in charge who has made mistakes;
- b) the limitation of the remuneration amount, including function allowances and bonuses or contributions;
- c) the replacement of one or more IU directors and officers within a period determined by CSBF;
- d) the limitation of the remuneration allocated to managers;
- e) the replacement of the auditor, actuary or independent actuary; and any other measures needed for the recovery of the IU financial situation.

Subsection 3. Freezing of assets

Article 359. CSBF shall freeze assets in one or more of the situations provided for in Article 357 of this Law.

CSBF may restrict or prohibit the free disposal of all or part of IU the movable or immovable assets and take all measures to safeguard the insured interests. CSBF shall determine which assets are subject to such action.

In the event of a freeze on assets, CSBF Chairman may, in particular, require:

1. the prescription to any issuing or custodian company, by any process leaving a written record, to refuse the execution of any transaction involving accounts or securities belonging to the IU as well as the payment of interest and dividends relating to said securities;
2. the registration of the mortgage on the IU's buildings in accordance with the regulations in force;
3. the prescription to the registrars of mortgages to refuse the transcription of all acts, the registration of any mortgages on the buildings belonging to the IU as well as the cancellation of mortgages granted by a third party in favour of the IU;
4. the deposit with a bank or a notary of mortgage loans granted by the IU engrossed copies.

Article 360. In accordance with the cooperation agreements, CSBF may request its foreign counterparts to take restrictive or prohibitive measures concerning the assets of the IU concerned located in their territory.

Subsection 4. Reorganisation plan

Article 361. In one or more of the situations provided for in Article 357 of this Law, CSBF may require the IU to submit a recovery plan.

CSBF shall set by instruction the deadline for the submission of the recovery plan, its content, the conditions for its preparation and updating, and the progress reports outlining the measures taken and the progress made to restore the IU situation.

CSBF approves the recovery plan and periodically verifies its implementation by the IU. CSBF may direct the IU to complete the recovery plan within a time limit set by CSBF, if the plan is significantly deficient.

CSBF communicates regularly with the Board of Directors, the general management and the auditors to ensure the remedial measures implementation.

CSBF may impose a penalty payment on the IU in accordance with Article 273 of this Law if it has not carried out the necessary measures within the set time limits.

Article 362. The IUs managers that do not produce or execute the recovery plan approved by CSBF are subject to the disciplinary sanctions provided for in Article 272 of this Law.

Section 3. Recovery Commissioner

Subsection 1. Appointment of the Recovery Commissioner

Article 363. CSBF may appoint a "Recovery Commissioner" in any of the situations provided for in Article 357 of this Law.

The Recovery Commissioner shall be recruited on the basis of his good repute and technical skills in insurance, management, banking, finance, law, economics, auditing or accounting, for a renewable term of six (6) months. He must have no connection with the IU in question and be subject to the prohibitions provided for in Article 410 of this Law and to the regulations governing commercial companies.

The conditions of intervention and remuneration of the Recovery Commissioner are fixed by an agreement signed with CSBF. The IU concerned shall bear the remuneration and expenses incurred by the Recovery Commissioner in the context of his mission.

CSBF shall notify the IU of the said conditions.

Subsection 2. Powers of the Recovery Commissioner

Article 364. The Recovery Commissioner shall ensure that the recovery measures decided by CSBF are implemented. He shall ensure that the Board of Directors and the general management do not carry out acts likely to aggravate the general situation of the IU.

CSBF may provide that the Recovery Commissioner's written, general or special authorisation is required for all acts and decisions of all the IU corporate bodies, including the General Assembly, subject to prompt reporting to CSBF. The latter may, however, limit the operations subject to authorisation.

The Recovery Commissioner may not initiate actions that would modify the IU policies, nor may he proceed to the acquisition or alienation of real estate and securities of participations or investments not included in the recovery plan, unless he has obtained CSBF prior authorisation.

At CSBF's discretion, the powers of the Board of Directors, the general management and the powers of the IU representation may be transferred to the Recovery Commissioner. In any case, the work of the Ordinary and Extraordinary General Assembly shall not be suspended.

CHAPTER 2. IU CRISIS RESOLUTION

Section 1. Objectives of crisis resolution

Article 365. CSBF shall take the resolution measures provided for in Article 367 of this Law in order to:

1. resolve the difficulties of the systemically risky IU;
2. avoid adverse effects on financial stability, including preventing contagion risks;

3. protect the resources of the State by minimizing the use of exceptional public financial aid;
4. protect the policyholders and members' rights.

Where the IU subject to resolution proceedings is part of a group, CSBF shall implement the resolution measures in such a way as to minimize the impact on the group other entities and on the group as a whole.

Section 2. Conditions for crisis resolution

Article 366. When CSBF considers that the IU situation has become compromised and is likely to threaten the IU continued existence and significantly affect the rights of the insured and other creditors, it may decide to initiate the resolution procedure, to implement the resolution measures and the resolution plan provided for in Articles 367 and 370 of this Law.

The IU situation has become compromised in any of the following cases:

1. the recovery measures are not carried out or cannot be carried out or are not sufficient to restore the IU financial stability;
2. the IU shareholders do not show their ability or willingness to provide the support needed to rescue the IU;
3. the IU financial situation has deteriorated and the ratios which affect the ability of the IU to meet its immediate or short-term commitments are no longer complied with;
4. the IU share capital is less than half the amount of regulatory capital used to calculate the solvency ratio;
5. the IU assets are less than the minimum capital required for the authorised industry ;
6. The solvency ratio reaches half the minimum defined by CSBF instruction.

Section 3. Types of crisis resolution measures

Article 367. CSBF may order one or more of the following actions to be taken as resolution measures:

1. suspension of the rights of shareholders and members;
2. increase in the share capital under the conditions set by CSBF;
3. total or partial suspension of the current contracts execution for the period it determines;
4. transfer of all or part of the assets, liabilities or one or more activities of the insurance business in general, all or part of the rights and obligations of the insurance company to the State or any other person, including any company created specifically for the purpose of such acquisition;
5. merger with a sound and stable IU;
6. conversion of debt into stock or any other security issued by the IU, except:
 - a) debts with a security interest, up to the value of such security interest;
 - b) claims arising from the provision of goods or services, up to an amount set by CSBF;

- c) claims of public institutions, up to an amount set by CSBF; and;
- d) other claims set by CSBF, whose exclusion is justified to ensure the stability of the financial system.

Article 368. CSBF's decision on the transfer, contribution of assets, merger with a healthy and stable IU sets out the conditions, the terms and conditions for carrying out the operation and the compensation payable to the owners of the transferred assets. The draft agreement between the resolution commissioner and the transferee is submitted to CSBF for validation. The agreement approved by CSBF is enforceable against third parties and creditors.

Article 369. Contractual clauses that allow a party to an agreement entered into with the IU to modify or terminate the agreement due to the appointment of the Resolution Commissioner or the taking of any of the above resolution measures are null.

Section 4. Crisis Resolution Plan

Article 370. CSBF shall draw up a resolution plan for each of the entities under its supervision. The plan shall include, among other things, the exceptional resolution measures that can be implemented promptly, the methods used to value the assets and assess the disposal of the IU or certain of its business lines, the financing terms and conditions for the various resolution options and CSBF's communication plan for the insurance and the public sector.

CSBF will update the resolution plan as the environment requires.

CSBF may ask the IU, its shareholders, its managers, its auditors or its IRIs to provide it with all the information necessary to carry out the resolution plan and to ensure its effectiveness.

Section 5. Crisis resolution commissioner

Subsection 1. Appointment of Crisis Resolution Commissioner

Article 371. CSBF shall appoint a Resolution Commissioner to monitor the implementation of the resolution plan. The Resolution Commissioner shall be recruited on the basis of his good repute, skills and qualifications in the fields of insurance, banking, finance, law or auditing.

He shall have no connection with the IU in question and be subject to the prohibitions provided for in Article 410 of this Law.

CSBF shall publish the decision to appoint a Resolution Commissioner on the BFM website and in an official journal when it is not prejudicial to the stability of the financial system as a whole. As long as CSBF has not proceeded to such publication, the IU is exempted from the transparency obligations with respect to the appointment of the Resolution Commissioner.

In the performance of his duty, the Resolution Commissioner benefits from the legal protection applicable to CSBF members and supervisory agents of the General

Secretariat, as provided for by the Banking Law.

The conditions of intervention and remuneration of the Resolution Commissioner are set by an agreement signed with CSBF. The IU concerned covers the remuneration and expenses incurred by the Resolution Commissioner in the context of his duty.

Should a compulsory liquidation proceedings provided for in Article 402 of this Law be opened, the claim corresponding to the Resolution Commissioner remuneration shall be paid by privilege before all other claims.

Article 372. The Resolution Commissioner's term of office shall not exceed one (1) year. It may exceptionally be extended if the terms for his appointment are still met at the end of this period to enable him to complete his mandate. CSBF may, at any time, modify or terminate his mandate.

Subsection 2. Powers and duty of the Resolution Commissioner

Article 373. The decision to appoint the Resolution Commissioner transfers to him the powers needed for the IU management and its representation to third parties as well as the General Assembly powers, in accordance with the requirements of the resolution plan.

The Resolution Commissioner determines and decides on the IU financial situation. He manages and restructures the IU and, if necessary, prepares the compulsory liquidation if he deems it impossible to solve the IU's problems or that the IU is in a situation of suspension of payments. It replaces the whole Board of Directors, the general management and the IU internal control body.

CSBF defines, where appropriate, the cases in which the Resolution Commissioner shall be obliged to consult CSBF and obtain its prior approval before taking a decision or convening a General Assembly. It may require the Resolution Commissioner to draw up and submit to it, at such intervals as it shall determine, reports on the IU financial situation, the implementation of the resolution plan and the resolution measures.

The Resolution Commissioner cannot be held liable for acts and deeds arising from the exercise of his duty, except in case of fraud or gross negligence.

Section 6. Transfer of portfolio

Article 374. CSBF's decision on the ex officio transfer of a portfolio releases the insurance company whose contracts have been transferred from any obligation to the insured, policyholders, members and beneficiaries of benefits. The terms and conditions for the transfer of the portfolio of the defaulting IU are set by CSBF instruction.

This operation must guarantee fair and prior compensation for the IU. It may be accompanied by a transfer of assets whose level and composition are approved by CSBF as part of the transfer decision.

The part of insured person's rights that may not be covered by the transferee is guaranteed within the limits provided for by decree on CSBF proposal by a payment from the security fund provided for in Article 379 of this Law to the transferee.

CSBF's finding that the portfolio transfer procedure has failed shall result in the approval withdrawal of the defaulting IU.

The Recovery Commissioner or the Resolution Commissioner, as the case may be, shall perform, until the appointment of the liquidator, the acts needed to manage part of the portfolio of contracts that has not been transferred.

Where the portfolio transfer procedure has not been successful or CSBF has taken a decision leading to the IU liquidation, the rights of the policyholders, contract holders, members and beneficiaries of benefits are guaranteed by payment to them of compensation from the Guarantee Fund provided for in Article 379 of this Law within the limits provided for by decree, on CSBF proposal.

Section 7. Exchange of information

Article 375. CSBF shall cooperate with BFM, the Ministry in charge of Finance, based on agreements entered into for this purpose which set out the intervention areas and the parties' respective obligations within the framework of an IU resolution.

CSBF is empowered to cooperate with foreign authorities in charge of the resolution, if the impaired IU established in Madagascar is a subsidiary of an IU whose head office is abroad.

Section 8. Withdrawal of approval

Article 376. Without prejudice to the provisions of Article 236 of this Law, CSBF may decide to withdraw the license of an investment firm subject to resolution proceedings, if necessary after resolution measures implementation.

CHAPTER 3. CRISIS MANAGEMENT IN IU GROUPS

Article 377. The individual or group recovery plan is intended to address a significant deterioration in the financial situation of the entities concerned or the group concerned in the event of a crisis.

Where the IU belongs to a group, the resolution plan shall take due account of the resolution plan drawn up at group level.

Where CSBF considers that the proposed measures are not sufficient to reduce or remove the reported impediments, it may take any measures with respect to the relevant group to examine the following:

1. the financing arrangements within the group and the fungibility of capital items within the group;
2. the resources in place, including the need to enter into service contracts within the group or with third parties, to ensure the exercise or provision of essential functions;
3. the level of concentration of individual or aggregate exposure on the assets and liabilities side of its balance sheet;
4. the reinsurance mechanism within the group.

CSBF may impose requirements such as:

1. ad hoc or regular reporting by CSBF for resolution purposes;
2. segregation of certain assets;
3. suspension or limitation of certain activities;
4. limitation or prohibition of the development or sale of new or existing activities;
5. modification to the legal or operational structures of the entity that the IU directly or indirectly controls in order to reduce its complexity and to allow, in case of application of the resolution measures, the legal and operational separation of critical functions from other functions.

CHAPTER 4. SECURITY FUND

Victims' Security Fund

Article 378. One or more Security funds shall be established in the territory of the Republic for the purpose of compensating third party victims of any kind of damage. The constitution, operation and implementation of the Fund and the nature of the insurance operations involved shall be specified by decree, on CSBF proposal or by specific regulation.

Guarantee fund for insured persons

Article 379. A security fund for policyholders, called the "Policyholders' Fund", is established to safeguard the policyholders' rights should the IUs fail in one of the situations provided for in Article 366 of this Law.

Approved IUs contribute to the said Fund in accordance with the terms set by CSBF instruction.

The terms and conditions for the application of this article shall be set by decree, on CSBF proposal.

TITLE XIII: LIQUIDATION OF INSURANCE COMPANIES

CHAPTER 1. GENERAL PROVISIONS

Section 1. Applicable rules and liquidation opening

Article 380. The provisions of this Title apply to IUs liquidation, notwithstanding the provisions of the regulations governing commercial companies and collective procedures for the settlement of liabilities.

A business entity shall be liquidated when:

- the IU recovery and resolution measures have not led to its recovery;
- the approval is withdrawn in accordance with the provisions of Articles 236 and 272

of this Law;

- the IU dissolution has been pronounced by CSBF in the cases provided for in Article 236 of this Law.

The liquidation may be voluntary or forced. The liquidation is voluntary when the approval withdrawal is pronounced at the IU's initiative. It is forced when the approval withdrawal is decided by CSBF.

IUs enter into liquidation as of the date of their dissolution. The list of IUs referred to in Article 232 of this Law specifies that they are in liquidation.

The words "IU in liquidation" and the name of the liquidator(s) shall appear on all acts and documents issued by the IU and intended for third parties, in particular on all letters, invoices, announcements and various publications.

Section 2. Control of liquidation

Article 381. During the liquidation, the IU shall remain subject to CSBF control. The IU may only carry out operations that are strictly needed to settle its situation. It may only refer to its status as an IU by specifying that it is in liquidation.

CSBF may at any time ask the liquidator for any information and justification concerning its operations and have on-site audits carried out.

The auditor remains in office during the liquidation.

In the course of the liquidation, CSBF prior authorisation is required for operations significantly affecting the situation of the IU in liquidation, in particular the:

1. operations other than recovery exceeding the ceiling set by CSBF;
2. abandonment of all or part of any debt or other real estate asset;
3. settlement of a specific debt incurred prior to the liquidation decision;
4. sale or mortgage of any real estate;
5. transfer of all or part of the assets to a shareholder who is a member of the IU's governance and control structures;
6. use of outside experts;
7. sale of movable and immovable assets by public auction or by mutual agreement, in one or more lots;
8. global transfer of the assets and liabilities of the IU to another sound and solid IU on the basis of the auditor's report;
9. management of the impaired assets by a public or private entity;
10. suspension of payment of claims, maturities and surrender values of life insurance or capitalization contracts.

The liquidator carries out the formalities needed for the aforementioned operations.

Section 3. Appointment of the liquidator

Article 382. The liquidator is appointed by the Extraordinary General Assembly in the case of voluntary liquidation and by the President of the Commercial Court in the case of enforced liquidation, at CSBF Chairman's request and proposal.

In case of voluntary liquidation, CSBF approves the appointment of the liquidator proposed by the IU. In the absence of an appointment in the dissolution deed, the Commercial Court President appoints the liquidator at CSBF Chairman's request and proposal.

In the event of compulsory liquidation, the liquidator is appointed by order of the Commercial Court President of the registered office place upon request and proposal of CSBF Chairman.

The Commercial Court President may, if necessary and after consultation with CSBF or at the request of its Chairman, order the replacement of the liquidator. CSBF may provide the Commercial Court President with any information it deems necessary.

CSBF General Secretariat shall publish the decision to appoint the liquidator on BFM website and in at least two (2) official journals.

The liquidator's term of office is at least one (1) year from the date of the liquidation decision, but not more than five (5) years.

The liquidator's mandate may be extended by decision of the President of the Commercial Court following a reasoned request from CSBF.

Section 4. Powers and duty of the liquidator

Article 383. All powers of administration, management and representation of the corporate body are transferred to the liquidator upon his appointment. The liquidator implements conservatory measures and actions for the recovery of claims due in order to preserve the IU value and protect the interests of the insured.

The liquidator acts under his own responsibility. His duty is, in particular, to:

1. manage the IU in liquidation for the purposes of the liquidation by realizing both the movable and immovable assets, and by settling the liabilities in view of the unpaid claims. It informs the employees;
2. take and bring any legal action relating to movable or immovable property in the place and stead of the IU or to represent it in any legal proceedings;
3. sell movable and immovable property in order to reimburse creditors, with the prior authorisation of CSBF Chairman who approves the price. The liquidator shall carry out the publication formalities and the terms and conditions for the transfer in accordance with the regulations in force;
4. request the services of valuers, notaries and experts;
5. negotiate with the creditors;
6. carry out any investigation to determine the causes of the bankruptcy and report to CSBF.

When the liquidator becomes aware of fraud or embezzlement committed by the IU corporate officers, he promptly informs CSBF. If he fails to do so, he is liable.

The liquidator may, with CSBF agreement, continue certain activities of the IU concerned to the needed and appropriate extent for the purposes of the liquidation.

Section 5. Liquidation procedures

Subsection 1. Establishment of the situation of assets and liabilities

Article 384. Without prejudice to the provisions of Article 386 of this Law, the liquidator shall establish, within six (6) months of the publication of his appointment, a situation of the assets and liabilities of the IU under liquidation as well as the liquidation plan provided for in Article 388 below and shall submit them to CSBF General Secretariat.

Within a period of one (1) month from the delivery date of the document mentioned in the previous paragraph, the liquidator convenes a General Assembly for the purpose of informing them of the liquidation procedure opening. The convening is made by insertion in at least two (2) official journals.

The liquidator is responsible for verifying the claims and making an inventory of the assets directly related to the liabilities, such as the claims against the insured, co-insurers and reinsurers.

Subsection 2. Inventory of representative assets

Article 385. The liquidator shall make a permanent inventory of the assets representing the IU's liabilities. The composition of the assets recorded in the inventory of assets representing the technical provisions provided for in Article 301 of this Law, at the time of the liquidation proceeding opening, must not be questioned, and no changes may be made to this inventory, except for the correction of purely material errors, unless authorised by CSBF Chairman.

Notwithstanding the first paragraph above, the liquidator must add to the said assets the financial income as well as the amount of the premiums or contributions collected between the liquidation proceeding opening and the payment of the claims or until portfolio transfer.

If the proceeds from the assets realization are less than their valuation in the aforementioned inventory, the liquidator is required to justify this to CSBF.

Subsection 3. Publication formalities

Formalities and time limits

Article 386. The liquidator shall carry out the following publication formalities:

1. within a period of one (1) month following the decision to dissolve:
 - the submission at the Registry of the deeds or minutes deciding on the dissolution;

- the change in the registration in the Trade and Companies Register;
 - the insertion of the notice of dissolution in at least two (2) official journals;
2. within one (1) month from the decision to withdraw approval: publication of the decision to withdraw approval in at least two (2) official journals;
 3. as soon as it is notified: the posting of a copy of the decision to withdraw approval in all operating premises open to the public;
 4. within one (1) month from his appointment: publication of the liquidator's appointment deed in at least two (2) official journals;
 5. within one (1) month from the closing of the liquidation, the publication of the closing of the liquidation and the deletion of the IU, in the newspapers of legal announcements having received the notice of the liquidator's appointment.

Delivery of debt instruments by creditors

Article 387. Known creditors who, within a period of one (1) month following the publication of the appointment of the liquidator, have not handed over to the latter, against a receipt, their securities together with a list including the documents handed over and the sums claimed by them, may be notified of the withdrawal of approval by a letter from the liquidator and invited to hand over their securities to him in the same way.

Subsection 4. Liquidation plan

Article 388. The liquidator shall draw up a liquidation plan, which shall include in particular:

1. the terms and conditions and course of the liquidation operation;
2. a detailed statement of the assets and any other possibility of mobilizing resources;
3. a detailed statement of liabilities specifying the amount of each debt, its privileged or unsecured nature, whether it is contested or not;
4. the steps in the liquidation process.

CSBF makes the liquidation plan available to anyone with an interest in it, with aggregated information on the assets and liabilities.

The liquidator publishes weekly for two (2) consecutive months in two (2) official journals and by any other appropriate means an announcement indicating the places where the liquidation plan can be consulted.

Subsection 5. Observations on the liquidation plan

Article 389. Any individual referred to in the previous Article shall have a period of one (1) month from the expiry of the period provided for in paragraph 3 of the previous Article to submit to the liquidator their observations or complaints concerning the liquidation plan.

The liquidator shall respond to these observations or complaints within one (1) month by any means that leaves a written record.

The liquidator then has a period of two (2) months to conduct negotiations with the insured and other creditors, individually or in committee. He shall draw up an adjusted liquidation plan which shall become enforceable upon its final approval by CSBF. The final liquidation plan is brought to the attention of the interested parties in order to inform them whether their claims have been admitted or not.

Subsection 6. Privilege of employees

Article 390. In the event of liquidation of the IU, the employees' rights shall be in accordance with the provisions of the Labour Code in force.

The claims of the IU employees shall be paid before any other privileged claims. They must be paid by the liquidator upon CSBF decision within ten (10) days of the decision pronouncing the IU withdrawal of approval, after deduction of the advance payments already received, if the necessary funds are available.

Should the funds be insufficient or unavailable the sums due shall be paid out of the first cash inflow without any other creditor being able to object.

Subsection 7. Suspension of creditors' proceedings

Article 391. From the date of liquidation, individual proceedings by creditors are suspended, except for preferential creditors. However, the liquidator shall give notice to preferential creditors to prosecute in order to realize their securities within a period of one (1) month from the date of notice. If they fail to do so within this period, the liquidator shall be entitled to act in place of preferential creditors, if such realisation makes it possible to preserve the interests of unsecured creditors.

Subsection 8: Invitation to creditors to provide their titles

Article 392. Within a period of twenty (20) working days following the publication of his appointment, the liquidator shall publish in at least two (2) official journals an announcement inviting creditors to provide their proof of debt.

The liquidator shall invite, by any means in writing, the creditors who have not submitted their debt securities within a period of one (1) month from the publication referred to in the preceding paragraph, to submit such documents.

The liquidator may at any time and if necessary convene a meeting of creditors or shareholders to discuss the liquidation procedure.

Subsection 9. Verification of claims

Article 393. The liquidator shall verify the claims in the presence of the creditors or their legal representative or in their absence after having summoned them by any means in writing. Where the supporting documents provided seem insufficient to him, he shall summon the creditors concerned.

The liquidator may, with CSBF authorisation, compromise on the existence or the disputed claims amount.

The liquidator automatically admits certain claims as liabilities. He enters, with reservation, disputed claims on the liabilities side if the creditors concerned have already brought the matter before the competent court.

He may, with CSBF authorisation, compromise the existence or the contested claims amount on the debts of the company.

After these verifications, the liquidator draws up a statement of admitted or contested claims, which he deposits at the Registry of the Commercial Court of the IU registered office.

Subsection 10. Opposition of creditors

Article 394. Within a period of five (5) working days from the date of deposit of the statement of claims referred to in Article 216 above, the liquidator shall notify the creditors and any interested person, in at least two (2) official journals, of the possibility to file an opposition before the Commercial Court President within a period of fifteen (15) working days from the aforementioned publication, under penalty of forfeiture of their rights. The Commercial Court President shall rule as in summary proceedings.

The Order of the Commercial Court President may, on a provisional basis, award all or part of the sum to the creditor subject to the provision of guarantees in accordance with the provisions of the Code of Civil Procedure. This Order is enforceable by the liquidator notwithstanding any opposition or appeal.

The Court clerk shall deliver to the liquidator a copy of the statement of claims with an indication of the fate of any objections received or the statement of no objection.

The creditor whose opposition is rejected shall nevertheless retain the right to bring an action before the competent courts.

Subsection 11. No objection

Article 395. Where the creditors fail to have validly referred the matter to the competent court within the time limit provided for in Article 394 above, the disputed or unknown claims shall not be included in the distributions to be made.

For claims subsequently known and admitted, creditors may not claim anything on the distributions already made. However, they have the right to deduct from the still undistributed assets their possible share in the previous distributions.

Subsection 12. Distribution to creditors

Article 396. Within a period of six (6) months from the filing with CSBF of the assets and liabilities, the liquidator shall make the distributions on the basis of the statement of claims admitted automatically and those admitted by the President of the Commercial Court ruling on an objection pursuant to Article 394 of this Law. The liquidator reports it to CSBF.

The liquidator takes into account the privileges of the creditors.

The proceeds from the realization of assets and securities, deducted from the expenses relating to the liquidation operations, including the liquidator's remuneration and operating expenses, are distributed to the various categories of creditors in the following order:

1. the State Treasury;
2. BFM as part of its recovery operations for the distressed IU;
3. the other preferred creditors in the order of their priority;
4. the part of the insured person's rights not reimbursed by the Guarantee Fund of the insured persons;
5. other unsecured creditors;
6. the sums advanced by the policyholders' guarantee fund.

In case of shortfall in the proceeds of the realization of the assets and guarantees, between equal claims and between equal creditors and unsecured creditors, the distribution shall be made in proportion to their claims, on a pound-for-pound basis.

As the assets and securities are realized, and each time a category of creditors is totally paid off, the remainder is distributed to the creditors of the following category in proportion to their claims.

Subsection 13. Unwithdrawn Funds and Assets Deposit of creditors

Article 397. At the completion of the liquidation, funds not withdrawn by creditors within a period of six (6) months shall be transferred to the deposit and consignment office with the list of the creditors concerned. The Liquidator shall distribute the liquidation surplus to the CI shareholders after this transfer.

Subsection 14. Liability of persons involved

Article 398. The liquidator, ex officio or on CSBF instructions, may apply to the Commercial Court for the extension of the liquidation of assets proceedings to the persons involved in the collapse of the IU financial situation.

CHAPTER 2. VOLUNTARY LIQUIDATION

Section 1. Prior authorisation

Article 399. Voluntary liquidation is subject to CSBF prior authorisation which is granted if the following terms are met:

- certification by a chartered accountant registered in Table A of the Association of Chartered Accountants, other than the IU auditor that the IU is in a position to promptly and fully meet all its obligations to the insured and other creditors;
- the approval of the liquidator and the liquidation plan by CSBF.

In order to ensure the full settlement of the IU's commitments, CSBF may make its

approval conditional on the provision of additional securities. It may also request the constitution of a provision for settling any possible post-liquidation liabilities.

Section 2. Decision on liquidation

Article 400. CSBF shall decide on the IU liquidation within two (2) months from the receipt of the IU's request.

The liquidation decision shall specify, in particular the following elements:

- the liquidation opening;
- the liquidator's identity;
- the period which shall not exceed five (5) years for the closure of operations.

CSBF Secretary General shall promptly notify the CI involved of CSBF's decision.

Section 3. Liquidation closure

Article 401. The liquidator shall convene the General Assembly to rule on the final accounts, the discharge of the liquidator's management and the report of his duty submitted beforehand to CSBF General Secretariat for comment.

The General Assembly shall declare the liquidation closed when the distribution to creditors is finalised or when the operations are stopped due to insufficient assets.

If the General Assembly cannot validly deliberate or if it disapproves the liquidator's accounts, the Commercial Court is competent to rule on them and pronounce the liquidation closure.

The liquidator shall send to CSBF the report on the IU liquidation and the minutes of the General Assembly meeting provided for in paragraph 1 of this Article. The IU shall be struck off the list of IU's referred to in Article 232 of this Law.

CSBF may submit, if necessary, the liquidator's report to the control and verification of the auditor. In order to do so, the liquidator shall hand over to the auditor the IU documents or electronic files, books, registers that he needs.

CHAPTER 3. FORCED LIQUIDATION

Section 1. Decision of liquidation

Article 402. CSBF shall decide on the forced liquidation of the IU when:

1. approval is withdrawn as a disciplinary sanction;
2. the IU financial stability cannot be restored despite the implementation of recovery actions without the need for resolution action;
3. the recovery plan proposed by the IU does not allow the IU's situation to be restored;
4. the IU does not comply with the approved recovery plan within the time period set by

CSBF;

5. CSBF decides to terminate the activity of an IU subject to a resolution procedure.

Section 2. Terms liquidator's intervention

Article 403. Subject to the provisions of Article 383 of this Law, CSBF shall determine by way of instruction the terms of intervention and remuneration of the liquidator.

The liquidator remuneration and the costs incurred in the liquidation procedure shall be borne by the IU in liquidation.

Section 3. Liquidation closure

Article 404. The liquidation closure shall be ordered by the Commercial Court President on the basis of the liquidator's report, after the advice of CSBF, when the distributions have been made to the creditors or when the transactions are stopped due to the insufficiency of assets.

The liquidator shall send his report on the IU liquidation to CSBF.

Article 405. The IU is struck off the list of IU referred to in Article 232 of this Law.

TITLE XIV: PROHIBITIONS

Section 1. Illegal practice of insurance

Article 406. It is prohibited for any natural or legal person, other than a licensed IU, to provide insurance services provided for in Articles 5 and 8 to 12 of this Law on a regular basis, under penalty of the criminal sanctions provided for in Article 420 of this Law.

Without prejudice to the specific provisions applicable to them, this prohibition does not apply to the entities listed in Article 3 of this Law.

In case of illegal practice of insurance services, the CSBF Chairman is entitled to carry out the following steps:

1. a report by a bailiff of any illegal practice of insurance services;
2. referral to the President of the Commercial Court or the court, in order to seize and/or seal any evidence by means of an order on request;
3. referral to the summary proceedings court to suspend the incriminated insurance services;
4. referral to the criminal courts for the illegal provision of insurance services.

CSBF is entitled to bring a civil action within the framework of the related criminal proceedings.

Following a decision ordering precautionary measures or a final decision, CSBF is entitled to inform the public by any means, including by posting notices on any premises of the entity in violation and to any administrative authority concerned.

No person shall insure any person, property or liability in Madagascar with an unlicensed company to conduct insurance business in the country, under penalty of the criminal penalties provided for in Article 420 of this Law.

The provisions of this section shall apply to the IRIs provided for in Article 212 of this Law.

Section 2. Company name or advertising

Article 407. Any person other than an IU or a foreign reinsurance company branch is prohibited from using a company name provided for in Articles 192 and 211 of this Law, to advertise or use expressions that lead to believe that it is licensed or authorised as an IU or a branch of a foreign reinsurance company, or from creating confusion in this regard, under penalty of the criminal sanctions provided for in Article 420 of this Law.

Only IUs authorised as "insurance company", "reinsurance company" and "mutual insurance company" may use these terms or their derivatives in their corporate names, in the acts and documents issued by the company, in advertisements and in various publicity materials, under penalty of the application of the penal sanctions provided for in Article 420 of this Law.

Section 3. Prohibited operations

Article 408. The following insurance operations are prohibited to IUs, under penalty of the criminal sanctions provided for in Article 421 of this Law:

1. cover of intentional claims on insurance in bad faith or fraudulently;
2. overinsurance in bad faith or the granting of insurance compensation greater than the value of the insured property in damage insurance;
3. insurance of fines and criminal settlements;
4. insurance of the death of a minor under twelve (12) years of age.

Article 409. It is prohibited for IUs to carry out services other than those for which they are licensed without CSBF prior authorisation, under penalty of the criminal penalties provided for in Article 421 of this Law. However, they may carry out any other commercial activity provided for in their approval decision.

Section 4. Members of Governance and Control Structures, Recovery and Resolution Commissioners and Liquidator

Article 410. No one may, directly or through an intermediary, be a member of the Board of Directors, the general management, the internal control body, the auditor, the Recovery Commissioner, the resolution commissioner, the liquidator of an IU, or have the power to sign on behalf of such an institution, under penalty of the criminal sanctions provided for in Article 422 of this Law, who:

1. has been convicted of crime or offence by a final court decision;
2. has been a member of the board of directors, the general management or a supervisory body of an IU under compulsory liquidation as provided for in Article 402 of this Law;
3. has been convicted of crime or offence by a final court decision;
4. has been convicted as a director, de jure or de facto manager of a company, under the regulations on collective procedures for settling of liabilities, unless an acquittal has been granted in his favour;
5. has been the subject to a striking-off order issued by the profession from which he comes;
6. has doubtful or contentious debts recorded in any information system created on the national territory;
7. was included in a list of excluded or struck off persons maintained by a competent authority under a specific regulation.

The aforementioned prohibitions also apply in case of dismissal, liquidation, conviction of a crime or offence or striking off by a foreign court or administration.

Section 5. Incompatibilities

Article 411. Anyone holding governmental, institutional or elective office, as well as any legal entity under his control, may not assume a position as director, officer or controller of an IU, under penalty of the criminal sanctions provided for in Article 422 of this Law. The incompatibility shall continue to apply for a period of two (2) years from the termination of the position.

Article 412. IUs shall ensure that the members of the Board of Directors, the general management and the supervisory body of an IU do not have the status of Persons referred to in Article 411 above.

The latter resign from their functions within the Board of Directors, the general management and the supervisory body of an IU within one month. However, the acts performed before their resignation remain valid. The IU concerned shall immediately inform CSBF General Secretariat by any means that leaves a written record.

Section 6. Corruption or influence-peddling

Article 413. The following are liable to the sanctions provided for by the Law on the fight against corruption:

1. CSBF members;
2. the supervisory officers of CSBF General Secretariat;
3. any person designated by CSBF to ensure the supervision, recovery, resolution and liquidation of the IU;
4. members of the administrative, management and supervisory bodies of IUs;
5. any IUs' agent and distribution agents;
6. any promoter of an approval request as an IU; who commits any act of active or

passive corruption or influence-peddling.

Article 414. Any person who has knowledge of an act of corruption or influence peddling is required to alert the Independent Anti-Corruption Board, "BIANCO" in abbreviated form, provided for in the regulations on the fight against corruption, when the act is committed by the persons referred to in Article 413 above.

Section 7. Insurance intermediaries

Article 415. General agents are prohibited from managing and administering, directly or through an intermediary, a brokerage firm and, more generally, from holding any interest in such a firm. The same prohibition applies by reciprocity to insurance or reinsurance brokers with respect to general insurance agents.

No one may practice the profession of IRI under penalty of the criminal sanctions provided for in Article 433 of this Law if he has been convicted of:

1. a final conviction for a crime or misdemeanour;
2. a personal bankruptcy measure and the resulting prohibition;
3. dismissal from the functions of ministerial officers by virtue of a court decision;
4. violation of banking and insurance regulations.

IUs are prohibited from entering into insurance contracts through persons who do not have IRI status, under penalty of the criminal sanctions provided for in Article 433 of this Law.

Under penalty of the license to practice withdrawal, brokers are prohibited, except by mandate or by express agreement of the IU:

- to collect premiums or contributions or fractions of premiums or contributions;
- to withhold their commissions from premiums or contributions;
- to issue a cover note.

The convictions and measures referred to in the previous paragraph entail a ban on the agents and employees of the persons concerned from carrying out insurance operations.

The ban may also be pronounced by the courts against any person convicted of violating insurance and banking regulations.

Section 8. Prohibitions concerning the liquidator

Article 416. The liquidator and any person having participated in the administration of the liquidation are prohibited from personally acquiring, either directly or indirectly, out of court or by judicial sale, all or part of the IU's assets under liquidation, under penalty of the penalties for breach of trust.

Any liquidator who is guilty of embezzlement in his management shall be punished with the same penalties.

TITLE XV: CRIMINAL PROVISIONS

Section 1. General provisions

Article 417. CSBF shall inform the Public Prosecutor of any facts constituting criminal offenses of which it may have become aware in the exercise of its duties.

Article 418. CSBF shall be informed of any criminal proceedings brought against an IU or the persons referred to in Article 290 of this Law. Where necessary, a CSBF representative may be heard as an expert by the competent courts.

CSBF shall be entitled to bring a civil action within the framework of these proceedings.

Where necessary, a CSBF representative may be heard as an expert by the competent judicial authorities.

Article 419. In the event of a further offence, the maximum penalty and the rates of fine provided for by this Law shall be doubled.

Section 2. Non-compliance with prohibitions

Article 420. Any person acting on his own behalf or on behalf of a legal person who contravenes any of the prohibitions set forth in Articles 406 and 407 of this Law shall be liable to imprisonment for a term of three (3) months to two (2) years and/or a fine of Ariary 10,000,000 to Ariary 40,000,000.

Should the illegal practice of insurance services, or the use of a company name of an insurance service provider without approval or authorisation arise, the Court may, in addition, order the closure of the institution, the publication of the judgment or an excerpt of the judgment in the newspapers it designates and its posting in the places it determines, at the expense of the convicted person.

No person convicted of unlawfully carrying on insurance business shall be employed in any capacity by an insurance service provider or any other financial institution.

Section 3. Conducting prohibited or unauthorised transactions

Article 421. Without prejudice to the disciplinary sanctions imposed by CSBF, any insurance service provider shall be liable to a fine of between Ariary 4,000,000 and Ariary 100,000,000 if it has:

- carried out unauthorised operations for its category and not provided for in the approval or licence decision;
- failed to seek prior authorisation from CSBF in accordance with Article 235 of this Law;

- carried out insurance operations after the withdrawal of the license or authorisation.

Section 4. Member of the Board of Directors, the general management and the supervisory body

Subsection 1. Collapse of the IUs, incompatibilities and omissions

Article 422. Without prejudice to disciplinary sanctions imposed by CSBF, is liable to a fine of Ariary 10,000,000 to Ariary 40,000,000, any member of the administrative, general management and supervisory bodies of an IU who has:

- contributed to the IU collapse due to bad governance, general management or control of the IU;
- violated the incompatibilities provided for in Articles 285, 410 and 411 of this Law;
- violated the obligation to convene the General Assemblies or the auditor at the General Assemblies needed for the implementation of the recovery or resolution measures decided by CSBF;
- failed to produce or execute, under the terms and within the time limits provided for by this Law and its implementing provisions, the recovery plan provided for in Article 361 of this Law; failed to respond to requests for information from CSBF

Any person who has been convicted under the provisions of the first or second indent of the previous paragraph may not be employed, in any capacity whatsoever, within an IU or any other financial institution operating in Madagascar.

Subsection 2. Publication of accounts

Article 423. Any management body that fails to publish its accounts is liable to a fine of Ariary 1,000,000 to Ariary 5,000,000.

Subsection 3. Irregular distribution of dividends

Article 424. Any administrative body that distributes dividends in spite of the prohibition or limitation pronounced by CSBF is liable to a fine of Ariary 10,000,000 to Ariary 40,000,000.

Subsection 4. Statutory auditors

Article 425. Any statutory auditor who, either in his own name or as a partner in a company of auditors, knowingly gives or confirms false information on the company situation or who fails to disclose to the Public Prosecutor's Office any criminal acts of which he has knowledge, is liable to imprisonment for a term of six (6) months to five (5) years and/or a fine of Ariary 8,000,000 to Ariary 200,000,000.

Subsection 5. Misuse of corporate assets and publication of forgeries

Article 426. Is punishable by an imprisonment of two (2) months to two (2) years and/or a fine of Ariary 8,000,000 to Ariary 200,000,000, the managers or any persons who

in insurance matters:

- in bad faith, make use of the company's assets or credit in a way that they know is contrary to the company's interests, for personal, material or moral ends, or to favour another legal entity in which they are directly or indirectly interested;
- knowingly published or presented false financial statements or accounting documents.

Section 5. Obstructing the mission of control, resolution and liquidation

Article 427. Any person acting either on his own behalf or on behalf of a legal entity shall be liable to imprisonment for a term of three (3) months to two (2) years and/or a fine of Ariary 8,000,000 to Ariary 200,000,000 if he has:

- refused to comply with the CSBF requirements and decisions, the persons mandated by CSBF and the liquidator;
- obstructed or hindered the mission of the statutory auditor, CSBF and the persons mandated by CSBF and the liquidator;
- contravened the duty to warn as provided for in Article 284 of this Law;
- knowingly provided CSBF, BFM, the Ministry of Finance and any other competent authority with inaccurate documents or information.

Section 6. Non-compliance with the consumer protection rules

Article 428. Any person shall be liable to imprisonment for a term of one (1) month to six (6) months and/or a fine of Ariary 4,000,000 to Ariary 100,000,000 if he:

- has breached the provisions of Article 316 of this Law;
- brings to the attention of the public or customers inaccurate information or misleading or deceptive advertising.

Section 7. CSBF members

Article 429. Any CSBF member who breaches any of the incompatibilities provided for in Article 244 of this Law shall be liable to a fine of between Ariary 4,000,000 and Ariary 100,000,000.

Section 8. Whistleblower protection

Article 430. Any person who discloses any information that could identify the whistleblower referred to in Article 284 of this Law shall be liable to imprisonment for a period of two (2) to five (5) years and/or a fine of Ariary 200,000 to Ariary 4,000,000.

Section 9. Liquidation

Article 431. The liquidator shall be liable to imprisonment for a period of two (2) months to two (2) years and/or a fine of Ariary 4,000,000 to Ariary 100,000,000, if he

- failed to comply with the liquidation procedures provided for by this Law;
- carried out operations other than those necessary for the IU situation settlement;
- personally acquired, either directly or indirectly, out of court or by judicial sale, all or part of the assets of the IU in liquidation.

Article 432. The liquidator of an IU who has abused corporate assets is liable to imprisonment of two (2) months to two (2) years and/or a fine of Ariary 8,000,000 to Ariary 200,000,000.

Section 10. Penalties for IRIs

Article 433. Employers or principals who knowingly call upon, or allowed to call upon, by someone under their authority, persons who do not meet the conditions required to practice the profession of IRI, are liable to a fine of Ariary 4,000,000 to Ariary 100,000,000.

Section 11. Penalties for insurance fraud

Article 434. Any person who commits fraud as provided for in Articles 65, 267 and 335 of this Law shall be punished by imprisonment of at least six (6) months and no more than five (5) years, and/or a fine of at least Ariary 720,000 and no more than Ariary 10,800,000.

TITLE XVI: TRANSITIONAL AND FINAL PROVISIONS

Article 435. The provisions of the regulations on commercial companies that are not inconsistent with the provisions of this Law shall apply to the compulsory incorporation of joint stock companies and to branches of foreign reinsurance companies.

The provisions of the regulations on the general theory of obligations not contrary to the provisions of this Law shall apply to the insurance contracts provided for in this Law.

Article 436. IUs and IRIs licensed and authorised prior to the entry into force of this Law shall retain their licenses or authorisations.

They have a period of three (3) years from the publication of this Law to comply with it.

Regulations shall be issued for the application of this Article.

Article 437. The “Comité des Entreprises d’Assurance à Madagascar” (Madagascar Insurance Company Committee) or CEAM created by Decree n° 2001-1120 of December 28, 2001 relating to State control and the institutional framework of the insurance sector shall have a period of one (1) year from the publication of this Law to turn into a professional association provided for in Article 344 of this Law.

Article 438. The list of actuaries provided for in Article 348 of this Law shall be kept by the Ministry of Finance until the Professional Association of Actuaries is created under the same conditions as those provided for in Article 349 of this Law.

Article 439. This Law abrogates all previous legal provisions to the contrary, in particular Law 99-013 of August 2, 1999 on the Insurance Code.

Article 440. This Law shall be published in the Official Gazette of the Republic.

It shall be executed as a State law.

Promulgated in Antananarivo, on September 1, 2020

THE PRESIDENT OF THE REPUBLIC,

Andry RAJOELINA

**FOR CERTIFIED COPY
Antananarivo, February 04, 2021
THE GENERAL SECRETARY OF THE
STATE**

RAZANARAINIARISON Lucette