

Pursuant to Article 15, paragraph 4 of the Insurance Law (RS Official Gazette, No 139/2014) and Article 15, paragraph 1 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004, 85/2005 – other law, 44/2010, 76/2012, 106/2012, 14/2015 and 40/2015 – CC Decision), the Executive Board of the National Bank of Serbia hereby issues the following

DECISION ON THE MANNER OF PROTECTING THE RIGHTS AND INTERESTS OF INSURANCE SERVICE CONSUMERS

Introductory provisions

1. This decision regulates in detail the manner of protecting the rights and interests of the insured, policyholders, insurance beneficiaries and third injured parties (hereinafter: insurance service consumer), and the manner of mediation in the settlement of claims for damages, complaint filing by the insurance service consumer and the handling of such complaints.

2. An insurance undertaking, insurance brokerage undertaking, insurance agency undertaking, natural person – entrepreneur who is an insurance agent, as well as a bank, financial lessor and public postal operator that carry on insurance agency activities on the basis of prior approval of the National Bank of Serbia in conformity with law are obliged to ensure the right to information and protection of rights and interests of insurance service consumers, in accordance with the Insurance Law (hereinafter: Law) and this Decision.

Insurance undertaking's actions relating to the protection of insurance service consumers' rights

3. In the written information it is required to provide to the policyholder prior to conclusion of an insurance contract and on its website, the insurance undertaking is obliged to specify the complaint filing procedure, mandatory elements of such complaint and the deadline for submission of the response to allegations stated in that complaint.

4. If the insurance undertaking decides on an insurance claim filed by the insurance service consumer, the decision made in the procedure with regard to such claim must contain an instruction on the right to complaint.

5. The handling of and deciding on complaints must be based on principles of equality, integrity and efficiency.

6. The filing of a damage claim or request for the provision of information and explanations shall not be deemed to constitute a complaint for the purposes of this Decision.

Complaint about work of an insurance undertaking

7. The insurance service consumer may file a complaint to the insurance undertaking if not satisfied with the services provided by the undertaking, particularly with regard to the provisions of the insurance contract.

8. The insurance service consumer may file a complaint in writing, at the business premises or through the insurance undertaking's website, by mail, fax or email at the address specified for the receipt of complaints.

The insurance undertaking is obliged to accept a written complaint of the insurance service consumer at any of its business premises where its services are provided and, at the consumer's request, issue a confirmation of receipt stating the time and place of the receipt, as well as the name of the employee in the insurance undertaking who received the complaint.

If the insurance service consumer intends to make a verbal complaint, the insurance undertaking is obliged to inform such consumer that it is under no obligation to consider a verbal complaint and to advise the insurance service consumer about the manner in which a complaint can be filed.

On its website and in the written information provided to the policyholder prior to conclusion of the insurance contract, the insurance undertaking shall specify the address to which the complaints should be sent, as well as the fax number, and/or email address for the receipt of complaints.

If the insurance service consumer files a complaint through the insurance undertaking's website or by email, the undertaking has an obligation to acknowledge receipt of the complaint without delay.

9. A complaint may be filed to the insurance undertaking on account of violation of rights or interests in connection with such undertaking's operations, including in particular:

- actions of the insurance undertaking and/or the person performing insurance agency activities for such undertaking;
- insurance undertaking's decisions relating to the insurance contract or its performance.

10. The insurance service consumer may file a complaint in person or through his representative and/or proxy.

11. The complaint shall contain the following data and documents:

- name, surname and address of the complainant, if he is a natural person, and/or business name and head office of a legal person and name and surname of the legal representative of such legal person and/or proxy if the complaint is filed in the name and for the account of a legal person;
- reasons for complaint and requests of the complainant;
- evidence supporting allegations stated in the complaint;
- date of submission of the complaint;
- signature of the complainant and/or his representative or proxy, except when complaint is submitted in electronic format;
- written power of attorney if the complaint is filed by a proxy.

Insurance undertaking's decision-making on complaints

12. The insurance undertaking shall issue an internal act to regulate in detail the procedure of complaint filing and decision-making on complaints, in accordance with the provisions of the Law and this decision.

The act referred to in paragraph 1 hereof shall designate the person in the insurance undertaking who is authorized to handle the complaints and/or provide responses to complaints, and who possesses the expertise necessary for decision-making on complaints.

The insurance undertaking shall notify the National Bank of Serbia of a new act referred to in paragraph 1 hereof, and/or on any amendments and/or supplements thereof within eight days from the day of adoption of this act and/or its amendments and/or supplements.

To ensure objective evaluation of allegations and evidence stated in the complaint, the person participating in the procedure referred to in paragraph 2 hereof may not be the same person who acted in the name of the insurance undertaking in cases in relation to which the insurance service consumer filed the complaint.

13. The insurance undertaking shall notify the complainant, upon his request, of the course of the complaint handling procedure.

After verifying the allegations stated in the complaint and/or evaluating all available facts, evidence and information relating to such allegations, the

insurance undertaking shall decide on the complaint and submit a response to the complainant.

If the insurance undertaking establishes that it is not competent to resolve the complaint, it shall refer the complainant to the competent person, if such person can be established.

14. The insurance undertaking has an obligation to respond to the complainant in writing within no more than 15 days from the day of receipt of the complaint. The response shall contain the undertaking's representations with regard to allegations contained in the complaint, together with an explanation, assessment of the complaint's merit and the signature of the authorized person.

If the insurance undertaking assesses the complaint to be founded, it shall notify the complainant of whether the reasons for the complaint have been removed and/or of the deadline for their removal and measures to be taken for their removal.

If the complaint is submitted by email or the complainant requests to receive the response in electronic format, the response may be sent in electronic format, signed with a qualified electronic signature, within the meaning of the law governing electronic signatures.

By way of exception to paragraph 1 hereof, if the insurance undertaking is unable to respond within the deadline specified therein for reasons beyond its control, the deadline may be extended by up to 15 days at most, of which the insurance undertaking shall notify the insurance service consumer in writing within 15 days from the date of receipt of the complaint.

The notification referred to in paragraph 4 hereof shall contain the reasons for which it is impossible to deliver the response within the deadline referred to in paragraph 1 hereof, stating the final deadline by which such response shall be delivered.

15. In the procedure of deciding on the complaint, the insurance undertaking is obliged to communicate with the complainant in a simple and understandable way.

16. In its response to the complaint, the insurance undertaking shall inform the insurance service consumer of his right to file a complaint with the National Bank of Serbia, if he is not satisfied with the response provided by the undertaking.

The insurance undertaking may not charge the insurance service consumer any fees or any other amount in respect of the costs of complaint handling.

Register of complaints

17. The insurance undertaking has an obligation to duly keep an electronic register of received complaints, containing the following data:

1) name, surname and address of the complainant, if the complainant is a natural person, and/or business name and head office of the legal person and name and surname of the legal representative of the legal person and/or authorized person who filed the complaint;

2) insurance policy number, type of insurance and the risk covered by such insurance;

3) manner and date of receipt of the complaint;

4) reasons for filing the complaint, with the obligation to classify complaints as follows:

– in accordance with Section 9 hereof, with specification of the business name and head office of the person carrying on insurance agency activities for the insurance undertaking, if the complaint is made in reference to actions and activities of such persons,

– by area, including in particular marketing and sale of insurance policies, settlement of claims arising from insurance contracts, insurance terms, insurance premiums and management of business processes;

5) data on the result of decision-making on complaints;

6) date of submission of response to the complaint and date of performance of the insurance undertaking's obligation stated in such response.

18. The insurance undertaking shall keep all documentation in respect of the complaint for at least five years from the day of submission of the response to the complaint.

Analysis of complaints, taking of measures and notification

19. The internal audit of the insurance undertaking shall examine and analyse compliance with the act referred to in Section 12 hereof at least once a year.

Following completion of the examination and analysis process, the internal audit shall complete a report containing, at least, a description of audit subject matter with more significant findings, detected irregularities, designation of responsible persons and the proposal of measures and

recommendations for removing such irregularities, as well as deadlines for their implementation.

The report referred to in paragraph 2 hereof shall be submitted to the supervisory board of the insurance undertaking.

20. The insurance undertaking shall monitor and supervise the implementation of the act referred to in Section 12 hereof, analyse the undertaking's internal audit report and take measures to remove irregularities established in its operations.

The executive board of the insurance undertaking has an obligation to:

- analyse the causes of individual complaints and identify the common cause underlying a larger number of complaints, if such cause can be established;
- consider whether the established causes may also influence other insurance processes and products, including those to which the complaint does not directly refer;
- take adequate measures to remove and/or limit and prevent the occurrence of causes of complaints.

21. The insurance undertaking is obliged to prepare a report on the complaints received and to submit it electronically to the National Bank of Serbia, in accordance with the rules on electronic submission of data to the National Bank of Serbia, within no more than 15 days from the end of the quarter.

22. The insurance undertaking is obliged to take, without delay, any necessary measures in respect of the person carrying on insurance agency activities on its behalf, if it establishes that such person has acted contrary to its obligations and/or in breach of the rights of insurance service consumers.

Data relating to violation of the rights of insurance service consumers and the undertaken measures referred to in paragraph 1 hereof must be specified in the report referred to in Section 21 hereof.

Actions of the insurance brokerage undertaking with regard to protection of insurance service consumers

23. The insurance brokerage undertaking shall ensure the protection of rights and interests of insurance service consumers and act upon complaints filed by such persons in relation to the performance of insurance brokerage

activities by analogous application of provisions of Sections 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 18 and 21 hereof.

Actions of persons carrying on insurance agency activities with regard to protection of insurance service consumers

24. An insurance agency undertaking, natural person entrepreneur acting as an insurance agent, as well as a bank, financial lessor and public postal operator that carry on insurance agency activities on the basis of prior approval of the National Bank of Serbia in conformity with law, shall ensure the protection of rights and interests of insurance service consumers, in accordance with the provisions of the insurance contract concluded with the insurance undertaking.

When acting upon a complaint filed by an insurance service consumer with regard to the performance of insurance agency activities, the person referred to in paragraph 1 hereof may forward such complaint to the insurance undertaking in whose name and on whose behalf it carries on the activities of preparing and concluding insurance contracts and may notify the complainant thereof, if this is stipulated by the insurance agency contract.

If the contract referred to in paragraph 1 hereof stipulates that the person referred to therein is tasked with ensuring protection of rights and interests of the insurance service consumer, such person shall ensure such protection and shall act upon the complaint of the consumer filed with regard to the performance of insurance agency activities by analogous application of Sections 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 18 and 21 hereof.

National Bank of Serbia's complaint handling procedure

Filing of complaints

25. An insurance service consumer may file a complaint with the National Bank of Serbia about the activities of an insurance undertaking, insurance brokerage undertaking, insurance agency undertaking, natural person – entrepreneur acting as an insurance agent, as well as about the activities of a bank, financial lessor and public postal operator that carry on insurance agency activities on the basis of prior approval of the National Bank of Serbia (hereinafter: insurance service provider).

Handling insurance service consumer's complaints filed with the National Bank of Serbia without first addressing the insurance service provider

26. If an insurance service consumer files a complaint with the National Bank of Serbia without having previously filed a complaint with the insurance service provider, the National Bank of Serbia shall not consider the allegations stated in that complaint and shall instead forward it to the insurance service provider without delay, and within no more than eight days from the day of receipt, for it to consider and respond to the insurance service consumer in the manner and within the deadline specified herein, of which it shall at the same time notify the insurance service consumer.

In the case referred to in paragraph 1 hereof, when sending the response to the insurance service consumer, the insurance service provider is obliged to submit a copy of the response to the National Bank of Serbia at the same time.

National Bank of Serbia's mediation proposal handling prior to insurance service consumer's complaint to the National Bank of Serbia

27. If the complainant is dissatisfied with the response of the insurance service provider or the response is not sent within the deadline set forth herein, the dispute between the insurance service consumer and the insurance service provider may be resolved through out-of-court settlement – mediation.

Once the mediation procedure commences, the insurance service consumer may not file a complaint with the National Bank of Serbia, unless the mediation procedure has been concluded by suspension or abandonment.

If the mediation procedure has been instituted upon insurance service consumer's proposal before filing the complaint with the National Bank of Serbia, the deadline referred to in Section 30 hereof shall not run during the mediation procedure.

Manner of filing complaints to the National Bank of Serbia and its acting upon such complaints

28. An insurance service consumer may file a complaint to the National Bank of Serbia provided that he had previously filed a complaint in writing to the insurance service provider and was dissatisfied with such provider's response, or the insurance service provider failed to respond in writing to such complaint within the deadline specified herein.

29. The complaint shall be filed to the National Bank of Serbia in writing, by mail or email at the email address of the National Bank of Serbia specified on its website.

Along with the complaint sent to the National Bank of Serbia, the insurance service consumer shall also submit a copy of the complaint submitted to the insurance service provider, such provider's response (if submitted by the provider) and the documentation on the basis of which the allegations made in the complaint filed with the National Bank of Serbia can be evaluated.

30. An insurance service consumer may file a complaint with the National Bank of Serbia within six months from the day of receipt of the insurance service provider's response or the expiry of the deadline for its submission.

Where the insurance service consumer files a complaint after the expiry of the deadline referred to in paragraph 1 hereof or upon initiating court action for reasons stated in the complaint, the National Bank of Serbia shall not consider such complaint, of which it shall notify the insurance service consumer.

31. Within no more than eight days from receiving the complaint, the National Bank of Serbia shall request in writing that the insurance service provider makes representations about allegations in such complaint, of which it shall at the same time notify the insurance service consumer.

32. The insurance service provider is obliged to make representations about allegations in the complaint in writing, within the deadline specified by the National Bank of Serbia in its request referred to in Section 31 hereof which may not exceed eight days from the date of receipt of such request, and to provide evidence supporting its representations.

Upon receiving the representations referred to in paragraph 1 hereof, and/or upon the expiry of the deadline referred to therein, the National Bank of Serbia may request that the insurance service provider submits additional representations and/or relevant evidence within the deadline it specifies in its request.

33. The National Bank of Serbia shall submit the final response to the insurance service consumer no later than three months from the date of receipt of the complaint. This deadline may be extended for an additional period of no more than three months in case of more complex disputes of which the National Bank of Serbia is obliged to notify the insurance service

consumer in writing within three months from the date of receipt of the complaint.

In the final response referred to in paragraph 1 hereof, the National Bank of Serbia shall indicate to the insurance service consumer the option of out-of-court settlement of the dispute with the insurance service provider through the mediation procedure, provide information on such procedure and point out that the conduct of such procedure is not subject to payment of any fees.

34. On its website, the National Bank of Serbia shall publish a quarterly report on the complaints filed.

Mediation by the National Bank of Serbia

35. If the service consumer is dissatisfied with the response provided by the insurance service provider or such response was not submitted within the deadline specified herein, the dispute between the insurance service consumer and the insurance service provider may be resolved through mediation procedure, in compliance with the law regulating mediation in dispute resolution.

The mediation procedure is conducted on behalf of the National Bank of Serbia by its employees that meet the requirements for engaging in mediator activities set forth by the law referred to in paragraph 1 hereof.

If a mediation procedure commences during the complaint handling process, the National Bank of Serbia shall stop handling the complaint and/or it shall abandon the complaint handling process if the mediation procedure ends in settlement.

The National Bank of Serbia shall not charge any fees for carrying out the mediation procedure, but any costs that may arise during the mediation procedure shall be borne by the parties to the dispute (travel and accommodation costs, unpaid leave from work, etc.).

Supervision

36. By controlling market behaviour of insurance service providers pursuant to the Insurance Law, the National Bank of Serbia shall also supervise such entities' actions with regard to protection of rights and interests of insurance service consumers in accordance herewith.

Transitional and closing provisions

37. The insurance undertaking and/or insurance brokerage undertaking shall adopt the act referred to in Section 12 hereof within 90 days from the day of entry into force of this Decision and shall submit such act to the National Bank of Serbia within 15 days from the day of its adoption.

38. An insurance agency undertaking, natural person – entrepreneur who is an insurance agent and a bank carrying out insurance agency activities on the basis of prior approval of the National Bank of Serbia shall amend and/or supplement, within 30 day from the day of entry into force of this Decision, the insurance agency contract concluded with the insurance undertaking, in order to regulate the procedure of acting upon complaints filed by insurance service consumers with regard to the performance of insurance agency activities.

If the contract referred to in paragraph 1 hereof stipulates that persons referred to in that paragraph shall ensure the protection of rights and interests of insurance service consumers, such persons shall, within 90 day from the day of amendment and/or supplement of such contract, adopt the act referred to in Section 12 of this Decision and submit such act to the National Bank of Serbia within 15 days from the day of its adoption.

39. As of the day of entry into force of this Decision, the Decision on the Protection of Rights and Interests of Clients of Insurance Companies and Voluntary Pension Fund Management Companies (RS Official Gazette, No 60/2011) shall cease to be valid.

40. The procedures for protecting the rights and interests of insurance service consumers initiated prior to the date of entry into force of this Decision shall be completed in accordance with the provisions of the regulations valid until that date.

41. This decision shall be published in the RS Official Gazette and shall enter into force on 27 June 2015, with the exception of Section 21 hereof which shall enter into force on 1 November 2015.

NBS EB No 61
19 June 2015
B e l g r a d e

Chairperson
NBS Executive Board
G o v e r n o r
National Bank of Serbia

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