KNF Board

Recommendations

on motor vehicle insurance claim settlement

Warsaw, July 2022

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I. Introduction

In order to ensure compliance of the business of insurance undertakings with legislation, prevent the harm to the interests of policyholders, the insured and beneficiaries under insurance contracts, and mitigate the risk arising from the business of insurance undertakings, the KNF Board (hereinafter: 'supervisory authority'), pursuant to Article 365(1) point 2(a)–(c) of the Act on the business of insurance and reinsurance (consolidated text: Journal of Laws 2021, item 1130, as amended; hereinafter: 'Act on the business of insurance'), issues Recommendations on motor vehicle insurance claim settlement (hereinafter: 'Recommendations').

The Recommendations also aim to implement the objectives of financial market supervision defined in Article 2 of the Act of 21 July 2006 on financial market supervision (consolidated text: Journal of Laws 2022, item 660, as amended), such as ensuring the proper functioning, stability, security and transparency of, and the confidence in, the financial market, as well as ensuring protection of the interests of market participants and taking measures aimed at ensuring the proper functioning of the financial market in accordance with Article 4(1) point 2 of the Act on financial market supervision.

The Recommendations replace the Guidelines on Motor Vehicle Insurance Claims Settlement constituting an annex to Resolution No 414/2014 of the KNF Board of 16 December 2014 on the issuance of Guidelines on motor vehicle insurance claim settlement (Official Journal of the KNF Board 2015, item 11; hereinafter: 'Guidelines'). The Recommendations contain requirements resulting directly from applicable laws, unambiguous rulings of the Supreme Court indicating best practices to be followed by insurance undertakings, from the need to protect the individual interests of policyholders, the insured and beneficiaries under insurance contracts, and the supervisory expectations in relation to insurance undertakings with regard to the organisation and management of the claim settlement process.

It should be emphasised that an insurance undertaking should establish and cultivate good relationships with customers (and in particular with persons entitled to a benefit under an insurance contract) in order to increase confidence not only in a specific insurance undertaking or insurance market, but also in the entire financial market.

The motor vehicle insurance category covers a wide range of insurance products, but the Recommendations present supervisory expectations with regard to the settlement of claims solving the major issues, from the perspective of the supervisory authority, with regard to motor third party liability insurance, accident and theft insurance, as well as personal accident insurance and roadside assistance insurance.

The Recommendations cover the following key areas previously covered by the Guidelines:

- timely payment of benefits,
- payment of benefits according to the principle of full compensation,
- respecting disclosure obligations towards beneficiaries,
- supervision and control by insurance undertakings' governing bodies over the claim settlement process,
- internal control in the claim settlement process,

– supervision and control by insurance undertakings over external entities performing claim settlement activities for them.

The Recommendations have also been expanded to include new areas with regard to which it is appropriate to indicate a good practice which relates to, in particular:

– the organisation by an insurance undertaking of claim settlement which ensures restoring the vehicle to its pre-damage condition as part of so called comprehensive motor vehicle claim settlement service,
– offering a rental of a replacement vehicle to the aggrieved party,
– reimbursement of expenses made by the beneficiary in connection with ordering an expert opinion to be prepared by a third party,
– concluding settlements.

The Recommendations indicate supervisory expectations regarding prudent and stable management of the area of motor vehicle insurance claim settlement, including the related risk. That risk may be defined as uncertainty related to the correct and effective conduct of the claim settlement process by insurance undertakings. It is primarily associated with operational risk and reputational risk. It should also be noted that irregularities in the motor vehicle insurance claim settlement process expose an insurance undertaking to specific financial losses related to the need to pay the legal fees in the dispute and, in the event of dismissal of the claim, the court costs, the representation costs, and interest for delay in the payment of benefits.

All Recommendations are addressed to domestic insurance undertakings as defined in the Act on the business of insurance, and should also be applied by main branches of foreign insurance undertakings, taking into account the specifics of their organisation. The Recommendations on the manner of conducting the claim settlement process and determining the amount of benefit under motor third party liability insurance contracts for damage caused by motor vehicles in motion referred to in Article 4(1) of the Act of 22 May 2003 on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau (consolidated text: Journal of Laws 2022, item 621, as amended; hereinafter: 'Act on compulsory insurance') should also be applied by foreign insurance undertakings with registered offices in the Member States of the European Union or the European Free Trade Association (EFTA) – parties to the European Economic Area agreement carrying on the business of insurance in the territory of the Republic of Poland, with regard to motor vehicle insurance according to the principles specified in the Act on the business of insurance.

This document contains 25 Recommendations, divided into the following areas:

– organisation, management, supervision and control of the motor vehicle claim settlement process,
– claim settlement process,
– method of determining the amount of benefit.

Recommendations 1 to 13 apply to the settlement of all types of motor vehicle insurance claims. The other Recommendations apply to the process of settling motor third party liability insurance claims in which there is damage to the vehicle.

Moreover, the supervisory authority recommends that if outsourcing is used, an insurance undertaking should ensure that third-party service providers perform the activities entrusted to

them in accordance with the Recommendations. The supervisory authority indicates that the agreements concluded by insurance undertakings with third-party service providers should include appropriate clauses which guarantee that the activities of insurance undertakings, also in the scope outsourced to those service providers, meet the standards specified in the Recommendations.

The supervisory authority expects insurance undertakings to apply the Recommendations not later than from 1 November 2022.

The supervisory authority expects that the decisions of insurance undertakings related to the method of implementing the solutions indicated in the Recommendations will be preceded by an in-depth analysis and supported by appropriate arguments.

The ‘comply or explain’ approach applies to the Recommendations. Under Article 365(5) of the Act on the business of insurance, insurance undertakings which do not comply, or do not intend to comply, with the Recommendations should notify the supervisory authority how they intend to reach the objectives for the implementation of which the supervisory authority has issued the Recommendations. The above information will be disclosed on the supervisory authority’s website.

II. Glossary

Depreciation – a loss of value of a spare part being a component of a benefit under a motor vehicle insurance contract due to damage to a vehicle that results from a difference between the value of the new part used to repair the vehicle and the value resulting from the wear and tear of the part destroyed due to an accident.

AVS – authorised vehicle service – a vehicle repair shop authorised by the vehicle's manufacturer or importer.

O parts – new, original spare parts provided directly by the vehicle's manufacturer.

P parts – new, non-original spare parts of a comparable quality, covered by guarantee by the manufacturer of such parts, who also certifies that the parts are of the same quality as the components which are or were used for the assembly of the vehicles.

Q parts – new spare parts of the same quality as the parts provided directly by vehicle manufacturer (manufactured according to production specifications and standards established by the vehicle manufacturer), manufactured by the same manufacturer which provides the vehicle manufacturer with mounting components or spare parts (also known as 'equivalent original parts').

Claim adjuster – a person who carries out activities in the course of a claim settlement process, including in particular: collection of the necessary documents in that process, visual inspection of the object of damage, determination of the scope of liability of the insurance undertaking, contacting the beneficiary under the insurance contract in the course of the claim settlement process, determining the value of the benefit. Any reference in these Recommendations to a claim adjuster shall also mean a team of persons carrying out activities in the course of the claim settlement process, if at the insurance undertaking in question there is a team of persons responsible for claim settlement.

Cost estimate method – a method of determining the value of benefit due to vehicle damage, based on a calculation adopted by the insurance undertaking, which specifies the expected costs of repairing the damaged vehicle.

Service method – a method of determining the value of benefit due to vehicle damage, based on an invoice or bill issued by the repair workshop which repaired the damaged vehicle.

Supervisory authority – the KNF Board (Komisja Nadzoru Finansowego).

Outsourcing – an agreement between an insurance undertaking and a service provider under which the service provider delivers a process, service and/or activity which would otherwise be delivered by the insurance undertaking itself, as well as an agreement under which the service provider entrusts the delivery of such a process, service and/or activity to other entities, through which the service provider delivers such a process, service and/or activity.

Vehicle – a means of transport the holder of which is required under the Act on compulsory insurance to conclude a motor third party liability insurance contract,

Claim settlement process – a process that covers the activities aimed at clarifying the circumstances necessary to determine the insurance undertaking's liability for a chance event

and the value of benefit (if any), as well as paying, or a refusal to pay, a benefit within the time limit required under the legislation and/or the insurance contract.

Procedure – a document defining a course of action, adopted by the competent body of the insurance undertaking with unambiguously specified scope and effective dates, distributed in a manner determined by the insurance undertaking.

Internal control system – a system covering in particular administrative and accounting procedures, internal control organisation, relevant arrangements regarding preparing reports at all levels of an insurance undertaking's organisational structure, and the compliance function.

Management system – a management system functioning at an insurance undertaking, covering the risk management function, compliance function, internal audit function and actuarial function, which system ensures sound and prudent management of the insurance undertaking and covers at least an organisational structure in which responsibilities are clearly defined, an effective communication system and compliance with other requirements laid down in the Act on the business of insurance.

Total loss – in motor third party liability insurance, a damage to the vehicle to the extent that the value of the expected repair costs determined according to the Recommendations exceeds the vehicle's pre-damage market value.

Partial loss – in motor third party liability insurance, damage to the vehicle to the extent that the value of the expected repair costs determined according to the Recommendations does not exceed the vehicle's pre-damage market value.

Vehicle insurance – motor third party liability insurance, theft and accident insurance, personal accident insurance, roadside assistance insurance.

Roadside assistance insurance – voluntary insurance against roadside assistance costs in case of an occurrence of an event in connection with the use of the vehicle, as specified in the insurance contract.

Accident and theft insurance – voluntary insurance of the vehicle against the effects of events, in particular against damage, destruction and loss.

Personal accident insurance – voluntary insurance against bodily injury, health disorder or death of the vehicle's driver or passenger.

Motor third party liability insurance – third party liability insurance of motor vehicle holders against damage caused by motor vehicles in motion, as referred to in Article 4 point 1 of the Act on compulsory insurance.

Beneficiary – a person entitled to a benefit under a motor vehicle insurance contract.

Act on the business of insurance – Act of 11 September 2015 on the business of insurance and reinsurance (consolidated text: Journal of Laws 2021, item 1130, as amended).

Act on compulsory insurance – Act of 22 May 2003 on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau (consolidated text: Journal of Laws 2022, item 621, as amended).

Loss of commercial value (loss of market value of a vehicle) – loss of value of a vehicle due to an event affecting that vehicle, leading to liability of an insurance undertaking. It is determined by the difference between the pre-damage market value of the vehicle and its post-damage value determined under the same market conditions, provided that the post-accident repair was performed properly, in accordance with the technology recommended by the manufacturer, at a repair workshop which meets the technical and HR requirements to perform such repair.

Insurance undertaking – a domestic insurance undertaking or foreign insurance undertaking that carries out its business activity in the territory of the Republic of Poland in the area of motor vehicle insurance.

Principle of full compensation – for motor third party liability insurance, a principle defined in Article 361 § 2 of the Act of 23 April 1964 **–** the Civil Code (consolidated text: Journal of Laws 2022, item 1360) according to which within the limits of the relevant causal relationship, compensation should, in principle, correspond to the amount of damage suffered by the aggrieved party and compensate for any detriment to their rights or interests protected by law.

Event – chance event as defined in the Act on the business of insurance.

Making a claim – notifying the insurance undertaking of an event covered by motor third party liability insurance, accident and theft insurance, personal accident insurance and/or roadside assistance insurance.

III. List of Recommendations

Organisation, management, supervision and control of motor vehicle insurance claim settlement process

Recommendation 1

An insurance undertaking should have an appropriate organisational structure for proper motor vehicle insurance claim settlement.

Recommendation 2

The management board of an insurance undertaking should ensure effective management of the area of motor vehicle insurance claim settlement.

Recommendation 3

The supervisory board of an insurance undertaking should effectively supervise the area of motor vehicle insurance claim settlement.

Recommendation 4

An insurance undertaking should develop, adopt and ensure the proper functioning of the procedures that are part of the management system in the insurance undertaking which define the manner of conducting the claim settlement process.

Recommendation 5

An insurance undertaking should ensure the functioning of an effective internal control system, including a compliance function, and an effective internal audit function in the area of motor vehicle claim settlement, in such a manner as to support the management board, persons appointed by the management board to be responsible for that area, and the supervisory board in the performance of obligations related to managing and supervising that area.

Recommendation 6

An insurance undertaking should develop, adopt and ensure the functioning of a system of management information on the motor vehicle insurance claim settlement process which is tailored to the scale of its business activity and the size and profile of risk related to that activity, which is an integral part of the insurance management system and which allows for the identification of risks occurring in that process.

Recommendation 7

An insurance undertaking should ensure that outsourcing does not lead to deterioration of the motor vehicle insurance claim settlement process and the management system of the insurance undertaking, and in particular to excessive exposure to operational risk and reputational risk, or to deterioration of the supervisory authority's ability to monitor the insurance undertaking's compliance with its obligations in that area.

Recommendation 8

An insurance undertaking should develop, adopt and ensure the functioning of a claim adjusters remuneration system which ensures the efficient course of the motor vehicle insurance claim settlement process.

Recommendation 9

An insurance undertaking should ensure that the persons performing activities in the area of motor vehicle insurance claim settlement have appropriate skills and knowledge, in particular through access to training in that area.

Method of conducting the claim settlement process

Recommendation 10

An insurance undertaking should conduct the claim settlement process in a manner that ensures the payment of benefit or making a final decision to refuse to pay the benefit in full or in part within the time limits specified in the applicable law and the insurance contract.

Recommendation 11

The claim adjuster's communication, in particular with the claimant, beneficiary, policyholder, the insured and the perpetrator, should be conducted with due care required by the professional nature of the insurance activity conducted by an insurance undertaking.

Recommendation 12

An insurance undertaking should develop, adopt and ensure the functioning of procedures defining communication between the claim adjuster and the entities taking part in the claim settlement process, forming part of the management system of the insurance undertaking.

Recommendation 13

An insurance undertaking should keep motor vehicle insurance claim settlement documentation, including in particular claim documentation and justification of the determination and adjustment of the provision for outstanding claims and benefits for a given loss, with due care required by the professional nature of the insurance activity conducted by the insurance undertaking.

Recommendation 14

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should provide the beneficiary with complete and clear information on the method of determining the amount of benefit, including its undisputed part.

Method of determining the amount of benefit

Recommendation 15

In the event of a partial loss, an insurance undertaking should determine the benefit under a motor third party liability insurance contract in the amount that enables the beneficiary to restore the vehicle to its pre-damage condition.

Recommendation 16

When determining the amount of benefit under a motor vehicle liability insurance contract, an insurance undertaking may, with the express consent of the beneficiary, organise the vehicle's repair in a repair workshop which will result in restoring the vehicle to its pre-damage condition (comprehensive motor vehicle claim settlement service), but it may not make the payment of the benefit dependent on using that service.

Recommendation 17

An insurance undertaking should determine the benefit under a motor third party liability insurance contract in the amount that takes into account purposeful and economically valid costs of new parts and materials used for the repair of the damaged vehicle. If an insurance undertaking proves that the repair performed with the use of new parts and materials has led to an increase in the value of the vehicle in relation to its pre-damage value, it may reduce the value of benefit by the amount corresponding to such increase.

Recommendation 18

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should take into account the value of parts that need to be exchanged, in order to restore the vehicle to its pre-damage condition.

Recommendation 19

A benefit under a motor third party liability insurance contract determined using the cost estimate method should be determined based on the value of available parts.

Recommendation 20

An insurance undertaking should not determine the amount of benefit that results in limiting the ability of the beneficiary of a motor third party liability insurance contract to repair the vehicle where a total loss has not occurred. An insurance undertaking should use the same criteria for determining the vehicle's repair costs and the vehicle's pre-damage and post-damage value, regardless of whether it determines the amount of benefit in the case of a partial loss or examines if it is justifiable to deem the loss to be a total one. If the loss is

deemed to be a total one, an insurance undertaking should provide the beneficiary with assistance as to the use of the wrecked vehicle.

Recommendation 21

The liability of an insurance undertaking under a motor third party liability insurance contract for damage to a vehicle includes reimbursement of purposeful and economically valid costs of renting a replacement vehicle.

Recommendation 22

With regard to liability under a motor third party liability insurance contract for damage to a vehicle, an insurance undertaking may offer rental of a replacement vehicle for the period of repair of the damaged vehicle or for the period necessary to purchase another vehicle.

Recommendation 23

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should take into account the loss of commercial value of the vehicle, in cases where such loss has occurred.

Recommendation 24

An insurance undertaking's liability under a motor third party liability insurance contract includes reimbursement of valid expenses for ordering an expert opinion, provided that the preparation of such opinion is necessary to seek the benefit payment effectively.

Recommendation 25

When making a settlement proposal, an insurance undertaking should provide the beneficiary with complete and clear information about the method of determining the amount of proposed benefit under a motor third party liability insurance contract, and about the consequences of making the settlement.

IV. Recommendations

Organisation, management, supervision and control of the motor vehicle insurance claim settlement process

1. Recommendation 1

An insurance undertaking should have an appropriate organisational structure for proper motor vehicle insurance claim settlement.

1.1. The organisational structure should be flexible enough to be in due time adjusted to changes in the scope of business operations or business environment of an insurance undertaking related to the motor vehicle insurance claim settlement process.

1.2. An insurance undertaking should have documentation which specifies the insurance undertaking's organisational units which are responsible for the area of motor vehicle insurance claim settlement, including indication of the scopes of responsibility and rules of reporting to members of the management board and persons appointed by the management board to be responsible for that area.

1.3. Persons responsible for making declarations of intent on behalf of an insurance undertaking with regard to accepting or refusing to accept a claim in full or in part should have powers of attorney whose scope is specified in an unambiguous manner.

2. Recommendation 2

The management board of an insurance undertaking should ensure the effective management of the area of motor vehicle insurance claim settlement.

2.1. The management board should undertake activities necessary for sound and prudent management of the area of motor vehicle insurance claim settlement, including for identifying, measuring, monitoring and managing related risks.

2.2. A member of the management board should be appointed for supervising the area of motor vehicle insurance claim settlement. That person and the persons reporting to them who manage the organisational units of the insurance undertaking responsible for motor vehicle insurance claim settlement should have skills in that area, resulting from knowledge and experience.

2.3. The management board should regularly monitor the current situation in the area of motor vehicle insurance claim settlement, in particular it should review the reports containing aggregated information which is material for the insurance undertaking's profile.

3. Recommendation 3

The supervisory board of an insurance undertaking should effectively supervise the area of motor vehicle insurance claim settlement.

3.1. The supervisory board should monitor and supervise the management board's activities necessary for identifying, measuring, monitoring and managing risks related to the area of motor vehicle insurance claim settlement, in the scope adjusted to the scale of the insurance undertaking's business activity and the size and profile of risk related to that activity.

3.2. The supervisory board should periodically, at least three times a year, receive reports of the management board containing information on material aspects in the area of motor vehicle insurance claim settlement including aggregate data on that area, material from the perspective of the insurance undertaking's profile.

4. Recommendation 4

An insurance undertaking should develop, adopt and ensure the proper functioning of the procedures that are part of the management system in the insurance undertaking which define the manner of conducting the claim settlement process.

4.1. Procedures, drafted in the Polish language, should be clear, precise and comprehensive, so that following them ensures an insurance undertaking's compliance with law. Procedures should describe each process, and in particular specify:

- method of receiving claims,
- rules of determining the facts of the insured event,
- methods of communication between the claim adjuster and entities taking part in the motor insurance claim settlement process (in particular with the claimant, beneficiary, policyholder, the insured, perpetrator, courts, prosecutor's office, institutions keeping public registers),
- manner of performing disclosure obligations by an insurance undertaking in the course of the claim settlement process,
- rules of sending regular reminders to the beneficiary and other entities in the course of claim settlement process (in particular courts, prosecutor's office, police) in cases where those entities are in delay in delivering documentation necessary for determining the liability of an insurance undertaking and the amount of benefit,
- rules of determining the liability of an insurance undertaking,
- rules of determining the amount of benefit,
- method of ensuring a timely conduct of the claim settlement process,
- rules of handling complaints in relation to the course of the claim settlement process,
- rules of collecting and archiving claim documentation and providing access to it.

4.2. Procedures should be designed so as to ensure that in the area of motor vehicle claim settlement there are no cases of overlapping of competences of organisational units and job positions at an insurance undertaking, that there are no elements of the motor vehicle claim settlement process for which no liability is assigned, and that there is effective cooperation and information exchange between organisational units.

4.3. An insurance undertaking should supervise the application of procedures, in particular it should ensure the control of correctness of their implementation and development of their modifications, in order to ensure an optimum course of the claim settlement process, from the perspective of the insurance undertaking's operations, legal requirements and protecting the interests of the beneficiary.

4.4. In order to ensure the correct application of procedures, an insurance undertaking should apply measures which make it possible to record and control the course of the claim settlement process, e.g. recording of phone calls or using the 'mystery shopper' solution.

4.5. Procedures and their application should be regularly reviewed by an insurance undertaking as part of the internal control system, at least once a year and in each case of changes in law, case law and activities of the insurance undertaking. The conduct of the review should be documented.

5. Recommendation 5

An insurance undertaking should ensure the functioning of an effective internal control system, including a compliance function, and an effective internal audit function in the area of motor vehicle claim settlement, which support the management board, persons appointed by the management board to be responsible for that area, and the supervisory board in the performance of obligations related to managing and supervising that area.

5.1. As part of its internal control system, an insurance undertaking should have an effective system for identifying irregularities in the area of motor vehicle insurance claim settlement and a system of reporting those irregularities which is adequate for the scale of conducted operations, which in particular should specify the frequency, the addressees, and the minimum content of the reports.

5.2. An insurance undertaking should have tools in place which enable current monitoring of the course of the claim settlement process, in particular with regard to: timeliness, occurrence of catastrophic events, making claims of above-standard value, and making claims which give rise to suspicions of insurance fraud.

5.3. In the area of motor vehicle insurance claim settlement, an insurance undertaking should ensure the functioning of a compliance function. Compliance monitoring should take into account the case law of the Supreme Court, settled case law of common courts, guidelines, recommendations and positions of the supervisory authority, as well as procedures and standards of conduct adopted by an insurance undertaking. That function should cover in particular:

- assessment of the possible impact of any changes in the legal environment on the area of motor vehicle insurance claim settlement,
- specification and assessment of risk related to non-compliance with law in the area of motor vehicle insurance claim settlement,
- assessment of adequacy of the measures taken to prevent non-compliance with law,
- advising the Management Board, persons appointed by the Management Board to be responsible for the area of motor vehicle insurance claim settlement and the Supervisory Board in that regard.

5.4. If it is justified by the scale of its business activity and the size and profile of risk related to that activity, an insurance undertaking should ensure the performance of internal audits of the motor vehicle insurance claim settlement process by persons specialising in that area.

5.5. Internal audit of an insurance undertaking should regularly assess at least the adequacy and effectiveness of the internal control system in the area of motor vehicle insurance claim settlement.

5.6. Persons conducting the internal audit should act independently and objectively. Objectivity or independence are limited in particular when those persons audit the activities in the area of motor vehicle insurance claim settlement for which they were responsible in the year preceding the audit.

5.7. If due to the possibility of performing an advisory service by persons conducting the internal audit their objectivity or independence may be limited, information about such limitation should be disclosed and appropriately reported by those persons, in accordance with the rules specified in appropriate procedures.

5.8. The area of motor vehicle insurance claim settlement should be a fixed element of internal audit plans, developed in particular based on documented methodology of risk assessment in that area. When developing internal audit plans regarding motor vehicle insurance claim settlement, an insurance undertaking should take into account in particular: degree of centralisation of the process of motor vehicle claim settlement and technological advancement of the insurance undertaking, as well as the scope of granted powers of attorney and scope of activities outsourced to external entities.

5.9. Reports on internal audits should be submitted to the managers of the insurance undertaking’s organisational units subject to the audit after each internal audit, whether the reports identified irregularities or not.

5.10. The results of internal audits should always be documented and reported to the Management Board and the Audit Committee or Supervisory Board, if the latter performs the functions of the Audit Committee. Activities undertaken by the insurance undertaking due to the results of an internal audit should be subject to monitoring and appropriate supervision.

6. Recommendation 6

An insurance undertaking should develop, adopt and ensure the functioning of a system of management information on the motor vehicle insurance claim settlement process which is tailored to the scale of its business activity and the size and profile of risk related to that activity, which is an integral part of the insurance management system and which allows for the identification of risks occurring in that process.

6.1. The functioning of an adequate management information system functionally linked with the internal control system should be based on written procedures. Such procedures should take into account the organisational structure of an insurance undertaking, tasks performed in the motor vehicle claim settlement process, IT systems used during that process, human resources of the insurance undertaking and distribution of tasks of the Management Board and persons appointed by the Management Board to be responsible for that process.

6.2. The management information system should be designed and managed in a manner which ensures support for the Management Board and persons appointed by the Management Board to be responsible for the motor vehicle claim settlement process.

6.3. The management information system should provide the Management Board and persons appointed by the Management Board to be responsible for the motor vehicle insurance claim settlement process – at particular management levels – with access to reliable and credible information in that process, material from the perspective of the insurance undertaking's profile, including in particular:

– number of claims made,

– timely payment of benefits,

– timely fulfilment of disclosure obligations,

– information on the payment of benefits,

– information on the refusal to pay benefits,

– number of complaints submitted to the insurance undertaking with regard to motor vehicle insurance claim settlement,

– number of court proceedings conducted against the insurance undertaking regarding claims made, including the number and value of claims accepted and claims dismissed,

– risks identified in the motor vehicle insurance claim settlement process,

– information on the provisions being created and their adequacy.

6.4. The management information addressed to the Management Board and persons appointed by the Management Board to be responsible for motor vehicle insurance claim settlement at particular management levels of the insurance undertaking should be submitted in a regular manner appropriate for the scale of the conducted operations, for the purpose of optimum use of its data during ongoing management, monitoring and supervision of the motor vehicle insurance claim settlement process and related risks.

6.5. The procedures which define the management information system and its functioning should be reviewed depending on the needs, changes introduced to processes, and the insurance undertaking's internal management policy, but not less than once a year.

7. Recommendation 7

An insurance undertaking should ensure that outsourcing does not lead to deterioration of the motor vehicle insurance claim settlement process and the management system of the insurance undertaking, and in particular to excessive exposure to operational risk and reputational risk, or to deterioration of the supervisory authority's ability to monitor the insurance undertaking's compliance with its obligations in that area.

7.1. Outsourcing of activities in the area of motor vehicle insurance claim settlement does not release an insurance undertaking from responsibility for the quality and timeliness of those activities.

7.2. An insurance undertaking should have current, complete and legally compliant outsourcing procedures adequate to the nature, scale and complexity of its operations, which should specify in particular:

- method of selecting an external entity,
- detailed information which should be included in a written agreement with an external entity,
- detailed terms of performing the outsourced activities and the process of analysing outsourcing-related risks.

Moreover, the above procedures should ensure that the outsourcing agreement being concluded covers all elements required by law.

7.3. The procedure for selecting an external entity should take into account the risk related to outsourced activities and include in particular the assessment of the security level ensured by it and the quality of the performed activities.

7.4. An insurance undertaking should analyse the risk related to an external entity's failure or sudden ending of cooperation, and have effective contingency plans in place in case of such situations.

7.5. An insurance undertaking should monitor the quality and timeliness of the performance of outsourced activities performed by an external entity, and significant findings resulting from that monitoring should be periodically submitted to the Management Board as part of the management information system. The scope, frequency, methods of monitoring and reporting should take into account the specifics of performed activities and their materiality from the perspective of the continuity and security of an insurance undertaking's operations.

8. Recommendation 8

An insurance undertaking should develop, adopt and ensure the functioning of a claim adjusters remuneration system which ensures the efficient course of the motor vehicle insurance claim settlement process.

8.1. Procedures which define the claim adjusters remuneration system should clearly, transparently and precisely define:

– the method of determining the amount of remuneration based on objective criteria and taking into account the type of the work performed, skills necessary to perform them, and the amount and quality of the work performed,

– the method of calculating variable remuneration components (e.g. performance bonuses, quarterly bonuses, annual bonuses, allowances) based on quantity and quality criteria related to the performed work, if such components are included in the claim adjusters remuneration system in the insurance undertaking,

– manner of verifying the fulfilment of objective criteria forming the basis for acquiring the right to variable remuneration components.

8.2. An insurance undertaking should not make the claim adjuster's remuneration dependent on the amount of benefits determined by the claim adjuster or the loss ratio determined for the claim adjuster.

8.3. The procedures which define the claim adjusters remuneration system should include elements which motivate claim adjusters to perform their tasks in a manner characterised by, among others:

– high quality of performed work,

– speedy conduct of the claim settlement process,

– compliance with law and procedures, including in particular those which oblige an insurance undertaking to respect the principle of full compensation,

– conducting claim settlement processes in a manner which leads to limiting complaints and court proceedings,

– caring about an insurance undertaking's reputation.

8.4. An insurance undertaking should supervise the application of procedures which define the claim adjusters remuneration system and ensure control over the correctness of the adopted claim adjusters remuneration system and developing the modifications of the above-mentioned procedures, including in order to ensure an optimum course of the claim settlement process from the perspective of the insurance undertaking's operations, legal requirements and protection of the beneficiary's interests.

8.5. Procedures which define the claim adjusters remuneration system and their application should be reviewed at least once a year.

9. Recommendation 9

An insurance undertaking should ensure that the persons performing activities in the area of motor vehicle insurance claim settlement have appropriate skills and knowledge, in particular through access to training in that area.

9.1. An insurance undertaking should organise regular training for persons performing activities in the area of motor vehicle insurance claim settlement. The scope of training should cover in particular:

– information on insurance products related to claim settlement, taking into account legal regulations and the terms and conditions of concluded contracts,

– rules of conducting the claim settlement process in accordance with the procedures of an insurance undertaking, including rules related to timely payment of benefits, timely provision of claim documentation, and timely performance of disclosure obligations,

– rules for the effective use of public registers,

– aspects which are material from the perspective of ensuring the insurance undertaking's compliance with applicable law, case law of the Supreme Court, and settled case law of common courts, and with guidelines, recommendations and positions of a supervisory authority.

9.2. An insurance undertaking should indicate in its organisational structure an organisational unit responsible for determining the scope of knowledge required for persons performing activities in the area of motor vehicle insurance claim settlement which is adequate to the given position, and the form of providing that knowledge, and indicate a member of the Management Board who will supervise the activities of the above-mentioned unit in the area of organised training.

Method of conducting the claim settlement process

10. Recommendation 10

An insurance undertaking should conduct the claim settlement process in a manner that ensures the payment of benefit or making a final decision to refuse to pay the benefit in full or in part within the time limits specified in the applicable law and the insurance contract.

10.1. After receiving a claim, an insurance undertaking should actively and independently adopt any reasonable measures in order to complete the claim settlement process (e.g. obtain information from police units, public registers or witnesses). In particular, an insurance undertaking should not wait for a court judgment in a situation where it is able to determine its liability or the amount of benefit on its own.

10.2. An insurance undertaking should not make the commencement or continuation of a claim settlement process dependent on the beneficiary's or claimant's presentation of documents confirming the conclusion of an insurance contract.

10.3. An insurance undertaking must not shift onto the beneficiary or claimant the burden of obtaining and delivering documents necessary for determining the liability of the insurance undertaking or the amount of benefit, if the insurance undertaking is able to obtain them on its own on the basis of the provisions of law.

10.4. Where appropriate, an insurance undertaking should, within the time limits specified in the legislation and the insurance contract, pay the undisputed part of the benefit, in the amount corresponding to the extent of the loss determined as of the day on which the decision to pay the undisputed part of the benefit was made.

10.5. Each claim made together with a notification of an event or at any later date should be handled considering the obligations under the legislation, in particular in respect of the time limit and disclosure obligations.

11. Recommendation 11

The claim adjuster's communication, in particular with the claimant, beneficiary, policyholder, the insured and the perpetrator, should be conducted with due care required by the professional nature of the insurance activity conducted by an insurance undertaking.

11.1. An insurance undertaking should provide the claimant or beneficiary with information on documents required to determine the insurance undertaking's liability or amount of benefit in writing or otherwise as expressly agreed to by the claimant or beneficiary.

11.2. A written notification of an insurance undertaking, addressed within the time limits indicated in a legal act or in the insurance contract to the claimant and indicating the reasons for the inability to satisfy their claim in full or in part should specify:

– a specific reason which prevents the satisfaction of claim in a given case,

– the expected time limit within which it will be possible,

– an indication of how the claimant should cooperate with the insurance undertaking in order to complete the claim settlement process (if the reason concerns the claimant).

11.3. A notification that the benefit is not payable or the amount payable is different from the amount claimed should include an indication of specific circumstances and the legal basis justifying the refusal to pay the benefit in full or in part.

11.4. Upon request of persons indicated in the Act on the business of insurance, an insurance undertaking should promptly provide them with information and documents collected to determine the insurance undertaking's liability or the amount of benefit.

11.5. Every time an insurance undertaking provides information or documents referred to in Recommendation 11.4, it should make a record or document this fact, indicating the scope of that access.

11.6. If in the claim settlement process the beneficiary acts through an attorney-in-fact, an insurance undertaking should send all correspondence in that process to the attorney-in-fact, and send to the beneficiary at least a copy of the correspondence related to the payment of benefit or making a final decision to refuse to pay the benefit in full or in part.

12. Recommendation 12

An insurance undertaking should develop, adopt and ensure the functioning of procedures defining communication between the claim adjuster and the entities taking part in the claim settlement process, forming part of the management system of the insurance undertaking.

12.1. An insurance undertaking should ensure that, immediately after making a claim, the beneficiary or claimant receives the contact details of the claim adjuster conducting the claim settlement process. If a team of people (claim adjusters) is responsible for settlement of the claim at a given insurance undertaking, it is sufficient to provide contact details of one of the claim adjusters.

12.2. An insurance undertaking should ensure that:

– the beneficiary has quick and easy access to the claim adjuster processing the claim,

– the claim adjuster provides the beneficiary with comprehensive explanations,

– the beneficiary receives objective, accessible, comprehensible and high quality information,

– the persons indicated in the Act on the business of insurance obtain prompt access to the files of the claim settlement process.

12.3. An insurance undertaking should provide the possibility of making direct contact with the claim adjuster in the course of the claim settlement process (in particular by the claimant, beneficiary, policyholder, the insured and the perpetrator) via telephone or e-mail, and also, if justified by the scale of the insurance business activity and the size and profile of risk related to that activity, the insurance undertaking may allow other forms of contact with the claim

adjuster, e.g. personal contact or contact via the insurance undertaking's website or mobile application.

12.4. If as a result of the claim adjuster's contact with entities taking part in the claim settlement process (in particular with the claimant, beneficiary, policyholder, the insured, the perpetrator, police) any arrangements have been made regarding the claim settlement process, such arrangements should be recorded in a form that allows for further access to such recording.

12.5. In the course of the claim settlement process, the claim adjuster conducting that process should avoid situations which may give rise to a conflict of interest. In the event where a conflict of interest arises, the claim adjuster should notify the insurance undertaking, and also should be able to withdraw from the claim settlement process.

13. Recommendation 13

An insurance undertaking should keep motor vehicle insurance claim settlement documentation, including in particular claim documentation and justification of the determination and adjustment of the provision for outstanding claims and benefits for a given loss, with due care required by the professional nature of the insurance activity conducted by the insurance undertaking.

13.1. If the insurance claims processing documentation is maintained in an electronic form, the manner of collecting such documentation should ensure immediate access to all the documents collected by the insurance undertaking in the process, on terms identical to those applicable to files in paper form.

13.2. Claim documentation related to each claim settlement process should include the proofs of sending and receiving by an insurance undertaking of particular documents, both paper and electronic ones. If documents are stored in an electronic form, paper documents should be digitised.

13.3. Claim documentation related to each claim settlement process should include, in addition to the decision to pay the benefit or not, also confirmation of the actual payment of the benefit on a given date. At the beneficiary's request, an insurance undertaking should provide a confirmation of benefit payment.

13.4. Claim documentation relating to each claim settlement process should be numbered in the order of appearance of documents in the claim settlement process, regardless of whether the claim documentation is maintained in paper or electronic form.

14. Recommendation 14

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should provide the beneficiary with complete and clear information on the method of determining the amount of benefit, including its undisputed part.

14.1. An insurance undertaking should provide the beneficiary, on its own initiative, with calculation of the vehicle repair costs based on which it determined the amount of benefit, including its undisputed part.

14.2. A calculation of vehicle repair costs should include full and clear information regarding in particular:

- vehicle make,
- vehicle model,
- vehicle type,
- vehicle's registration number,
- vehicle's identification number,
- year of production or date of first registration,
- total mileage of the damaged vehicle,
- number and type of operations necessary to repair the vehicle (replacement/repair of parts, painting of elements),
- parts undergoing replacement and repair,
- quality of parts (O, Q, P) which were taken into account in the calculation, their manufacturer and supplier,
- the number and type of man-hours required to complete the repair of the vehicle,
- the price of parts and man-hour rates.

14.3. If an insurance undertaking proposes to settle the claim as a total loss, the insurance undertaking should provide the beneficiary with:

- full estimates of the vehicle's pre-damage and post-damage value (estimate of the value of the wrecked vehicle), underlying the calculation of the value of the benefit, including information on the type and amount of any value adjustments, and
- detailed information containing data defined in Recommendation 14.2 on the calculation of the expected repair costs which have caused the insurance undertaking to recognise the validity of settlement of the loss as a total loss.

If the beneficiary agrees to the payment of the vehicle's pre-damage value, the insurance undertaking is not obliged to provide the beneficiary with an estimate of the value of the wrecked vehicle.

14.4. If in accordance with the vehicle valuation rules adopted by an insurance undertaking the application of a given vehicle value adjustment and its amount depend on the claim adjuster's discretion, the reason for such adjustment in a given amount should be explained to the beneficiary.

Method of determining the amount of benefit

15. Recommendation 15

In the event of a partial loss, an insurance undertaking should determine the benefit under the motor third party liability insurance contract in the amount that enables the beneficiary to restore the vehicle to its pre-damage condition.

15.1. Regardless of the method of determining the amount of benefit (cost estimate method or service method), an insurance undertaking should not apply practices which lead to the violation of the principle of full compensation.

15.2. If a claim is settled using the cost estimate method, the insurance undertaking may not apply other criteria for accounting for prices of spare parts and repair workshops services than in the case of claim settlement using the service method.

15.3. Determining the amount of benefit on the basis of calculation of vehicle repair costs adopted by an insurance undertaking should be made based on the market value of the services, materials and spare parts on the date on the date of determining the amount of benefit, including VAT (unless the beneficiary is a VAT payer and is entitled to reduction of the amount of tax due by the amount of tax calculated at the moment of purchase of goods or services), using:

– time standards for repairs ensuring provision of the service in a way that ensures that the vehicle is restored to its pre-damage condition,

– man-hour rates set by the insurance undertaking on the basis of prices charged by repair workshops operating in the local market (understood as the commune or district where the place of residence or registered office of the beneficiary is situated), which are able to perform repairs ensuring that the vehicle is restored to its pre-damage condition,

– spare parts and materials that ensure the restoration of the vehicle to its pre-damage condition.

15.4. If the beneficiary does not accept the amount of benefit or on each request of the beneficiary, an insurance undertaking should explain in detail on which basis it determined the price of services applied by repair workshops referred to in Recommendation 15.3. In such case, the insurance undertaking should also indicate the repair workshop providing repair services in the local market which is able to make repairs to ensure restoration of the vehicle to its pre-damage condition at the price presented by the insurance undertaking in a calculation of the repair costs.

15.5. An insurance undertaking should not require the beneficiary to present documents confirming the purchase of certain parts subsequently used for the vehicle repair and their quality class (O, Q, P), unless the document defining the cost of repair does not indicate specific parts used in that service and their quality class (O, Q, P).

15.6. If a calculation of the repair costs included in the cost estimate prepared by an expert or a repair workshop on behalf of the beneficiary is questioned, an insurance undertaking should, with regard to each adjusted position of the calculation, justify in a detailed and comprehensible way the basis on which it assumed that the calculation is incorrect.

15.7. An insurance undertaking should not question vehicle repair costs borne by the beneficiary in a repair workshop chosen by it if such costs have been determined according to prices applied by that repair workshop, even if those prices deviate from (are higher than) average prices, provided that they correspond to prices applied in the local market.

16. Recommendation 16

When determining the amount of benefit under a motor vehicle liability insurance contract, an insurance undertaking may, with the express consent of the beneficiary, organise the vehicle's repair in a repair workshop which will result in restoring the vehicle to its pre-damage condition (comprehensive motor vehicle claim settlement service), but it may not make the payment of the benefit dependent on using that service.

16.1. As part of a comprehensive motor vehicle claim settlement service, an insurance undertaking may, with the express consent of the beneficiary, organise the vehicle's repair in a repair workshop, provided that the insurance undertaking makes sure that the repair is performed with the use of a technological method corresponding to the type of damage to a motor vehicle and with the use of spare parts necessary to restore the vehicle to its pre-damage condition. The repair should be performed by a repair workshop providing services in the local market.

16.2. After visually inspecting the damaged vehicle, an insurance undertaking should ensure that the beneficiary receives information on:

– planned scope of repair,

– name of the repair workshop responsible for the repair, including its contact details,

– planned repair start date,

– planned repair duration,

– quality of parts which are to be used during the repair.

16.3. Before the vehicle repair starts, the beneficiary may give up the comprehensive motor vehicle claim settlement service.

16.4. As part of the comprehensive motor vehicle claim settlement service, an insurance undertaking should provide:

– transport of the repaired vehicle to the repair workshop,

– replacement vehicle for the period of the repair,

– return of the repaired vehicle in a manner and place agreed with the beneficiary,

– support in disputes with the repair workshop.

16.5. When returning the repaired vehicle to the beneficiary, an insurance undertaking should provide the beneficiary with detailed information about the repair, including in particular:

– name/business name of the repair workshop responsible for the repair, including its contact details,

– number and type of operations performed as part of the repair (replacement/repair of parts, painting of elements),

– list of parts subject to repair or replacement, including quality class (O, Q, P) of parts subject to replacement, and their manufacturer and supplier,

– reasons for using other parts than parts of quality 'O',

and should inform about the complaint procedure and the guarantee for repair, if it has been granted by the repair workshop.

16.6. The vehicle may be repaired by a repair workshop providing services outside the local market only if an insurance undertaking ensures the performance of warranty for repair or guarantee for repair in cases where such guarantee has been granted by the repair workshop. An insurance undertaking should bear the costs related to the performance of warranty or guarantee by the beneficiary, including the costs of transport or rental of a replacement vehicle.

16.7. If during claim settlement the loss is deemed to be a total one, an insurance undertaking should immediately inform the beneficiary about the lack of economic justification for the vehicle's repair, and provide the information referred to in Recommendations 14.1, 14.2, 14.3 and 14.4.

16.8. In the case of a comprehensive motor vehicle claim settlement service, Recommendations 14.1 and 14.2 do not apply.

17. Recommendation 17

An insurance undertaking should determine the benefit under a motor third party liability insurance contract in the amount that takes into account purposeful and economically valid costs of new parts and materials used for the repair of the damaged vehicle. If an insurance undertaking proves that the repair performed with the use of new parts and materials has led to an increase in the value of the vehicle in relation to its pre-damage value, it may reduce the value of benefit by the amount corresponding to such increase.

17.1. If a given part qualifies for replacement, when determining the amount of benefit it is appropriate to take into account the value of the new part.

17.2. When determining the benefit due, an insurance undertaking should not apply depreciation. That principle applies to all damaged parts of the vehicle.

17.3. When determining the benefit, an insurance undertaking may not make a reference to discounts applicable at repair workshops and points of sale cooperating with the insurance undertaking.

17.4. In a situation where as a result of the vehicle repair, in particular through the use of new parts, the value of the vehicle as a whole has been increased in relation to its pre-damage value, the insurance undertaking may reduce the value of benefit by the value corresponding to

such increase. The burden of proof in this regard rests with the insurance undertaking which should provide the beneficiary with a detailed valuation of the vehicle's pre-damage and post-repair market values – taking into account that the repair was performed using new parts and materials – showing the increase in the value of the vehicle as a result of the use of new parts for the vehicle repair.

18. Recommendation 18

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should take into account the value of parts that need to be exchanged, in order to restore the vehicle to its pre-damage condition.

18.1. An insurance undertaking should include only the value of O parts in the case of vehicles covered with guarantee of the manufacturer who makes the guarantee conditional upon the use of only new parts for repair.

18.2. An insurance undertaking should take into account the value of O parts also when justified by the particular interests of the beneficiary (e.g. when the vehicle has been previously serviced and repaired using only O parts, when the use of parts of other quality may affect its commercial value, or when the beneficiary has already performed vehicle repair with the use of O parts and provides the insurance undertaking with a proof of such repair). If in the cases described in the preceding sentence an insurance undertaking determines the benefit amount using the prices of parts other than O parts, it should provide the beneficiary with detailed justification of such decision.

18.3. Subject to Recommendations 18.1 and 18.2, when determining the amount of benefit using the cost estimate method, an insurance undertaking may take into account the value of Q parts, if it proves to the beneficiary that these parts come from the parts manufacturer supplying the parts to the vehicle manufacturer and the manufacturer of these parts confirmed that they have been manufactured according to the specifications and production standards established by the vehicle manufacturer.

18.4. When determining the amount of benefit, an insurance undertaking may take into account the value of P parts, if justified in particular by the age of the damaged vehicle, the degree of exploitation of parts in the vehicle, as well as the simplicity of the parts' design (which makes it possible to assess the suitability of such parts for full restitution without complex examination). However, even in the above cases, if the beneficiary has a particular interest in the use of O parts or Q parts (e.g. when the vehicle has been previously serviced and repaired using only O parts or Q parts, respectively, when the use of parts of different quality may affect its commercial value, or when the beneficiary has already performed vehicle repair with the use of O parts and provides the insurance undertaking with a proof of such repair), an insurance undertaking should determine the benefit taking into account the value of these parts.

18.5. If, on the terms set out in Recommendations 18.3 and 18.4, an insurance undertaking takes into account the value of parts of lower quality (Q or P) than the part eligible for replacement (O or Q), it should provide the beneficiary with an individualised justification of the decision made in that respect.

18.6. If calculation of the repair costs included in the cost estimate prepared by an expert or a repair workshop on behalf of the beneficiary is questioned, the insurance undertaking may not refer to prices of parts other than O parts, if parts other than O parts are not available.

19. Recommendation 19

A benefit under a motor third party liability insurance contract determined using the cost estimate method should be determined based on the value of available parts.

19.1. An insurance undertaking should inform the beneficiary of:

– the quality of parts (O, Q, P) taken into account to determine the amount of benefit,

– manufacturers of these parts,

– the guarantee period for these parts,

– from which (specifically named) manufacturers or suppliers the beneficiary may purchase these parts at prices proposed by the insurance undertaking at the time of determining the benefit.

19.2. In terms of cost of parts, the benefit amount determined by the insurance undertaking under Recommendations 18.1–18.4 should enable the beneficiary to purchase a new part in place of the damaged one in the local market. If parts of lower quality are not available, an insurance undertaking should, in the calculation of benefit, take into account the value of higher quality parts.

20. Recommendation 20

An insurance undertaking should not determine the amount of benefit that results in limiting the ability of the beneficiary of a motor third party liability insurance contract to repair the vehicle where a total loss has not occurred. An insurance undertaking should use the same criteria for determining the vehicle's repair costs and the vehicle's pre-damage and post-damage value, regardless of whether it determines the amount of benefit in the case of a partial loss or examines if it is justifiable to deem the loss to be a total one. If the loss is deemed to be a total one, an insurance undertaking should provide the beneficiary with assistance as to the use of the wrecked vehicle.

20.1. An insurance undertaking should not in any manner limit the beneficiary's discretion to decide on the possibility and extent of vehicle repair, if there are no grounds to settle the claim as a total loss, in particular it should not:

– impose on the beneficiary the obligation to agree on the cost of vehicle repair with the insurance undertaking before the repair,

– make the payment of benefit dependent on taking up the repair and presenting bills/invoices covering the total cost of the repair.

20.2. An insurance undertaking should use an identical method to determine the vehicle's pre-damage value and the expected repair costs both during verification whether there are grounds for settling the loss as a total loss and where the loss is classified as a partial loss, in particular with respect to considering the value of O, Q and P parts, labour costs, and VAT. In particular, for the purpose of establishing whether it is possible to settle the loss as a total loss, an insurance undertaking should not estimate the costs of vehicle repair according to higher man-hour rates applicable in the local market (e.g. by ASO) and with the use of higher quality parts (e.g. O parts) than those applied when settling the loss as a partial loss using the cost estimate method.

20.3. In the case of a total loss, an insurance undertaking should determine the amount of benefit as a difference between the vehicle's pre-damage market value and the market value of the wrecked vehicle.

20.4. An insurance undertaking should determine the market value of the wrecked vehicle in the amount equal to a binding offer for the purchase of the wrecked vehicle (e.g. obtained on an online platform), unless determining the market value of the wrecked vehicle in a different manner is justified by specific reasons, e.g. the vehicle's low pre-damage value or the costs of placing the offer on an online platform. An insurance undertaking should not increase the market value of the wrecked vehicle, in particular by the margin on the sale of the wrecked vehicle.

20.5. In the event of a total loss, an insurance undertaking should assist the aggrieved party in managing the wrecked vehicle, e.g. submit, at the request of the beneficiary, an offer to purchase the wrecked vehicle for a price consistent with the quote made by the insurance undertaking, or indicate an entity that is willing to acquire the wrecked vehicle for that price.

20.6. If it is impossible to sell the wrecked vehicle for the price given in the valuation proposed by the insurance undertaking, the insurance undertaking should appropriately adjust the determined amount of benefit.

21. Recommendation 21

The liability of an insurance undertaking under a motor third party liability insurance contract for damage to a vehicle includes reimbursement of purposeful and economically valid costs of renting a replacement vehicle.

21.1. An insurance undertaking should examine each claim for the reimbursement of the costs of renting a replacement vehicle, taking into account all circumstances of the case.

21.2. The right to benefit due to reimbursement of the costs of renting a replacement vehicle should not depend on:

- the beneficiary's inability to use public transport,
- the fact that the beneficiary conducts business,
- the fact that the beneficiary, who uses the vehicle for private purposes, proves that the beneficiary would sustain another material damage without renting a replacement vehicle,

– the fact that the beneficiary proves that it uses the replacement vehicle to perform particular daily activities, if it has otherwise proved the fact of using the replacement vehicle.

21.3. An insurance undertaking should not automatically refuse to reimburse the expenses sustained for the period of renting a replacement vehicle if a different vehicle is registered in the beneficiary's name.

21.4. The scope of reimbursing the costs of renting a replacement vehicle should be determined, in each case, by the criterion of their purposefulness and economic validity. An insurance undertaking should thus be obliged to reimburse purposeful and economically valid costs which make it possible to eliminate negative consequences for the beneficiary which cannot be eliminated otherwise, while striking a balance between the benefit for the beneficiary and the burden for the insurance undertaking.

21.5. Immediately after receiving a claim, an insurance undertaking should inform the beneficiary about the rules for recognising the costs of renting a replacement vehicle, in particular with regard to the type/class of the rented vehicle, and such information should clearly state that the beneficiary may rent a replacement vehicle of a generally similar class and for the period of repair of the damaged vehicle or for the period necessary to purchase another vehicle, according to the prices applicable in a given local market.

21.6. Regardless of the form in which the claim was received, information on the rules for recognising the costs of renting a replacement vehicle, which information is referred to in Recommendation 21.5, should be submitted in writing, electronically or by phone, according to the beneficiary's choice. If information about the rules for recognising the costs of renting a replacement vehicle is provided by phone, an insurance undertaking should confirm that information in writing or electronically, according to the beneficiary's choice.

21.7. When assessing the economic validity of the costs of renting a replacement vehicle, an insurance undertaking may not refer to rules about which it did not inform the beneficiary. When assessing the legitimacy of the claim for the reimbursement of the costs of a replacement vehicle, an insurance undertaking should take into account also those circumstances of the case which indicate when rental of a replacement vehicle is unnecessary.

21.8. Reimbursement applies not only to purposeful and economically valid rental costs actually borne by the beneficiary, but also to purposeful and economically valid rental cost which has not been borne but which results from a commitment made by the beneficiary.

21.9. The benefit paid by an insurance undertaking should cover the reimbursement of costs for the period of repair of the damaged vehicle or for the period necessary to purchase another vehicle.

21.10. An insurance undertaking should not automatically set the period of liability for reimbursing the costs of renting a replacement vehicle, in particular limit that period to the so called technological repair time (covering only the theoretically adopted sum of man-hours necessary to repair the vehicle) while omitting other objective factors which influence the period of the beneficiary's inability to use their own vehicle. In particular, the benefit paid by an insurance undertaking should cover the reimbursement of purposeful and economically valid

expenses for a period of prolonged vehicle repair, unless they result from circumstances for which the beneficiary is responsible.

21.11. The benefit paid by an insurance undertaking should cover the reimbursement of the costs paid for the period of repair of the damaged vehicle, which consists of, in particular:

- the period from the damage-causing event to the date of making the claim, provided that the claim was made without undue delay,
- the period from the date of making the claim to the date of making a visual inspection and agreeing on the costs of vehicle repair with an insurance undertaking,
- the period covering the repair of the damaged vehicle, including waiting for the delivery of ordered spare parts necessary to repair the vehicle and taking into account the organisational capabilities of the repair workshop,
- the period covering other objective factors which have an impact on the inability of restoring the damaged vehicle to its pre-damage condition, including the period necessary to hand over the damaged vehicle to repair and collect it after the repair, the period necessary to make another visual inspection, if it results from the need to determine the actual scope of damage to the vehicle, and the period necessary to carry out additional technical examination,
- public holidays in the periods listed above.

21.12. An insurance undertaking may reduce the benefit due to the reimbursement of the costs of renting a replacement vehicle by the costs of operation of one's own vehicle avoided by the beneficiary (in particular the cost of fuel and tyres). However, a reduction of benefit in that regard should be based on clear and individualised rules. It is now allowed to apply deductions in the form of flat percentage rebates which are not justified in detail, or other arbitrary adjustments.

21.13. An adjustment of the benefit amount in relation to claim made by the beneficiary is possible only after an insurance undertaking justifies it in writing. An insurance undertaking should explain in detail why only part of the claim made by the beneficiary has been recognised – compared to the costs of renting a replacement vehicle which have been borne and proved by the beneficiary.

22. Recommendation 22

With regard to liability under a motor third party liability insurance contract for damage to a vehicle, an insurance undertaking may offer rental of a replacement vehicle for the period of repair of the damaged vehicle or for the period necessary to purchase another vehicle.

22.1. If an insurance undertaking offers rental of a replacement vehicle, it should present a rental proposal to the beneficiary immediately after receiving the claim.

22.2. A proposal to rent a replacement vehicle should be specific and real (i.e. based on real proposals of rental companies which the beneficiary can use), and should:

a) concern a replacement vehicle which is essentially equivalent to the damaged vehicle, especially with regard to the its class and condition,

b) cover the entire planned and justified rental period,

c) allow the beneficiary to use the replacement vehicle in the same manner as the beneficiary would use the damaged vehicle if the damage giving rise to the insurance undertaking's liability had not taken place,

d) allow the beneficiary to collect and return the replacement vehicle without unduly disrupting the beneficiary's daily life,

e) provide for the coverage by an insurance undertaking of any and all costs of renting a replacement vehicle, including costs of advance payment which result from enabling the beneficiary to take advantage of the insurance undertaking's proposal on terms referred to in points (a)–(d),

f) determine the rental rates of a replacement vehicle whose class corresponds to the damaged vehicle, applicable based on actual offers of a rental company,

g) specify contact details necessary to take advantage of the rental proposal at a rental company,

h) indicate the consequences of rejecting the proposal for renting a replacement vehicle.

22.3. Regardless of the form of receiving the claim, the rental proposal referred to in Recommendation 22.2 should be submitted in writing, electronically or by phone, according to the beneficiary's choice. If information about a proposal for renting a replacement vehicle is provided by phone, an insurance undertaking should confirm that information in writing or electronically, according to the beneficiary's choice.

22.4. The rental proposal referred to in Recommendation 22.2 should be presented by an insurance undertaking in such a manner that it can be separated and clearly identified among other information provided to the beneficiary in the course of the claim settlement process.

22.5. At the beneficiary's request, an insurance undertaking should provide explanations regarding the presented rental proposal referred to in Recommendation 22.2, in the scope necessary for the beneficiary to make an informed decision on accepting or rejecting the rental proposal developed by an insurance undertaking.

22.6. If the beneficiary does not take advantage of the rental proposal referred to in Recommendation 22.2, when assessing the justifiability of reimbursing the costs of renting a replacement vehicle in the scope exceeding the costs of the proposal made to the beneficiary, an insurance undertaking should consider whether the costs in question arose in the course of performing the duty of cooperating with the insurance undertaking and minimising the damage by the beneficiary, and in particular whether rejecting the proposal of the insurance undertaking was justified by particular reasons speaking in favour of deeming the increased costs of renting a replacement vehicle as purposeful and economically valid.

22.7. When assessing the justifiability of reimbursing the costs of renting a replacement vehicle, an insurance undertaking may not refer to the consequences:

– not specified in the information referred to in Recommendation 22.2(h),

– resulting from a failure to present a proposal or from presenting an incomplete, unspecific or unreal proposal referred to in Recommendation 22.2,

– resulting from a failure to explain reasonable doubts of the beneficiary necessary to make an informed decision to accept or reject a proposal of rental of a replacement vehicle developed by an insurance undertaking.

22.8. When assessing the legitimacy of reimbursing the costs of renting a replacement vehicle for a period preceding the receipt of a specific and real proposal for vehicle rental, an insurance undertaking may not refer to rental rates included in that proposal.

22.9. If an insurance undertaking presents a proposal for vehicle rental, Recommendations 21.4, 21.5 and 21.6 do not apply. Recommendation 21 in the remaining scope applies accordingly.

23. Recommendation 23

When determining the amount of benefit under a motor third party liability insurance contract, an insurance undertaking should take into account the loss of commercial value of the vehicle, in cases where such loss has occurred.

23.1. After receiving a claim, an insurance undertaking should provide the beneficiary with information about the possibility of making a claim due to the loss of commercial value of the vehicle regardless of the form and manner of making the claim.

23.2. An insurance undertaking should – on its own initiative, guided by the principle of prudent management of the insurance undertaking – examine the legitimacy of taking into account, in technical provisions, any liability of the insurance undertaking due to the loss of commercial value of the vehicle as a result of damage and after taking into account the vehicle's repair in relation to the sustained damage, regardless of the fact whether the beneficiary made a claim in that regard.

23.3. When examining the legitimacy of including the loss of commercial value of the vehicle in the amount of benefit, an insurance undertaking should adopt a principle of individualisation of claim assessment while taking into account all circumstances of the case.

24. Recommendation 24

An insurance undertaking's liability under a motor third party liability insurance contract includes reimbursement of valid expenses for ordering an expert opinion, provided that the preparation of such opinion is necessary to seek the benefit payment effectively.

24.1. An insurance undertaking should verify whether ordering an expert opinion was justified, i.e. necessary and economically justified from the perspective of seeking the benefit payment effectively.

24.2. Ordering an expert opinion may be deemed unnecessary or economically unjustified in particular if:

– the person ordering the expert opinion had the possibility of establishing liability or the extent of damage without the help of third parties,

– the expert opinion was ordered prematurely, e.g. before the beneficiary received information about the method of determining the amount of benefit.

24.3. Ordering an expert opinion is justified in particular when as a result of receiving the expert opinion, an insurance undertaking changed its position with regard to accepting liability or determining the amount of benefit due.

24.4. If an expert opinion was ordered at the request of the assignee of claims for compensation, an insurance undertaking should establish whether the expert opinion was ordered directly in order to seek satisfaction of claim for compensation. In particular, the expenses related to assessing the assignment's profitability, even if they were borne after the assignment, fall outside the scope of compensation.

25. Recommendation 25

When making a settlement proposal, an insurance undertaking should provide the beneficiary with complete and clear information about the method of determining the amount of proposed benefit under a motor third party liability insurance contract, and about the consequences of making the settlement.

25.1. An insurance undertaking should not propose a settlement before it explains the circumstances necessary to establish the insurance undertaking's liability and the amount of benefit.

25.2. In a settlement proposal, an insurance undertaking should in particular indicate the claim to which a given settlement refers, and precisely specify the method of benefit payment.

25.3. A settlement proposal submitted by an insurance undertaking should specify which mutual, specific and actual concessions it covers. In particular, an insurance undertaking's commitment to conduct the claim settlement process within the time limits and on terms laid down by law may not be deemed a concession towards the beneficiary.

25.4. If a settlement proposal submitted by an insurance undertaking covers a waiver of claims by the beneficiary, the content of the settlement should expressly indicate the claims waived by the beneficiary.

25.5. When submitting a settlement proposal, an insurance undertaking should propose a date of concluding the settlement which enables the beneficiary to analyse that proposal.

25.6. A change to the settlement proposal introduced by an insurance undertaking should be justified in detail.

25.7. When making a settlement proposal to the beneficiary, an insurance undertaking should submit a draft settlement including information about the method of determining the

amount of benefit, which information is referred to in Recommendations 14.1, 14.2, 14.3 and 14.4, if such information has not been provided to the beneficiary at an earlier stage of the process.

25.8. A settlement may be concluded using means of distance communication only with the beneficiary's prior consent – in such case, an insurance undertaking should immediately confirm the content of the concluded settlement in writing or on a different durable medium, in a manner previously agreed with the beneficiary.