Polish Financial Supervision Authority

Guidelines

on Motor Vehicle Insurance Claims Settlement

Warsaw, 16 December 2014.

Table of Contents

Table of Contents **2**

I. Introduction **3**

II. Glossary **6**

III. List of Guidelines **9**

Organisation, management, supervision and control of motor vehicle insurance claims settlement process 9

Manner of conducting motor vehicle insurance claims processing 11

Method of insurance benefit calculation 12

IV. Guidelines **14**

Organisation, management, supervision and control of motor vehicle insurance claims settlement process 14

Manner of conducting the motor vehicle insurance claims processing 22

Method of insurance benefit calculation 26

I. Introduction

Taking into consideration the goals of supervision over the financial market specified in Article 2 of the Act of 21 July 2006 on Financial Market Supervision (Dz. U. of 2012, item 1149, as amended, hereinafter referred to as the Act) such as ensuring correct operation of the market, its stability, security and confidence in the market, as well as ensuring protection of its participants' interests and taking into consideration the tasks of the Polish Financial Supervision Authority (hereinafter the KNF) specified in Article 4.1.2 of the Act, such as taking measures fostering proper functioning of the financial market, "Guidelines on motor vehicle insurance claims settlement" (hereinafter referred to as the Guidelines) are issued.

The purpose of these Guidelines is to define expectations of the KNF regarding prudent and stable management of motor vehicle insurance claims settlement process, in particular regarding management of risk associated with this process. This risk may be defined as uncertainty related to the correct and effective claims processing conducted by insurance undertakings. It is primarily associated with operational risk, and reputation risk. It should also be noted that the irregularities in motor vehicle insurance claims settlement process expose insurance undertakings to the possibility of specific financial losses associated with the necessity to bear the legal costs of dispute, and if such dispute is lost, with the necessity to pay the court costs and legal representation costs as well as interest for delay.

The category of motor vehicle insurance covers a wide range of insurance products. However the Guidelines represent the opinion of the supervision authority and hence supervisory expectations regarding resolution of the currently most relevant issues from the perspective of the supervision authority, regarding claim settlement for motor third party liability insurance, casco insurance, personal accident insurance and roadside assistance insurance. In the opinion of the supervision authority, high standards of service provided to policyholders lodging motor vehicle insurance claims, following from the applicable law, Supreme Court judgments based on the applicable law, and established judgments of common courts not only do not restrict the development of the insurance market, but also ensure its safe and stable operation. In turn, irregularities regarding motor vehicle insurance claims settlement affect the perception of the entire insurance market. In particular, it is impossible not to notice the correlation between difficulties in obtaining motor vehicle insurance benefits and reluctance to buy insurance in the future.

The necessity of taking a stance by the supervision authority on motor vehicle insurance claims settlement results from the irregularities revealed in the course of supervision and reported by other insurance market institutions, including the Insurance Ombudsman, regarding in particular:

- untimely payment of insurance benefits,
- payment of insurance benefits in violation of the full compensation principle,
- violation of disclosure obligations while processing motor vehicle insurance claims,
- defective organisation of insurance claims settlement process, in particular insufficient transparency of this process,
- unclear, incomplete, outdated internal procedures regarding insurance claims settlement in insurance undertakings,

– insufficient internal control of insurance claim settlement process,
– inadequate supervision and control by insurance undertakings over the external entities that perform insurance claims settlement activities for them,
– inadequate supervision and control by the governing bodies of insurance undertakings over the insurance claims settlement process.

Referring to the above list of irregularities, it should be noted primarily that insurance undertaking should build and maintain good relations with clients (in particular with beneficiaries under insurance contracts) in order to increase the confidence not only in aparticular insurance undertaking or the insurance market, but in the entire financial market.

Insurance undertaking, as a public trust institution, should operate in compliance with the law and with due diligence. In this context, the supervision authority raises special concerns about the observed cases of motor vehicle insurance claim settlement practices that are inconsistent with the applicable law, the Supreme Court judgments based on the applicable law and on established judgments of common courts, in particular with regard to the method for calculating the amount of motor vehicle insurance benefits. It is even more alarming, as insurance undertakings employ highly qualified employees, while the observed irregularities regarding motor vehicle insurance claims settlement result from the lack of knowledge or the lack of compliance with the basic rules of insurance law. In the opinion of the supervision authority, particular attention should be given to ensuring professional conduct and compliance with the professional ethics standards among the employees involved in motor vehicle insurance claims settlement, from the entry level employees to the members of insurance undertakings' governing bodies. Financial results cannot be more important than the principles of honesty, loyalty, and respect for the interests of beneficiaries under insurance contracts.

In the opinion of the supervision authority, disregarding the full compensation principle cannot be justified by the underestimation of the insurance premiums by insurance undertakings. The supervision authority highlights the obligation of insurance undertakings to apply Article 18.2 of the Act of 22 May 2003 on Insurance Activity (i.e.: Dz. U. of 2013, item 950 as amended), according to which the amount of insurance premium should at least ensure compensation of all the obligations under the insurance contract and cover the costs of insurance activities carried out by insurance undertakings. Therefore, insurance undertakings should calculate premiums in such manner as to provide the beneficiaries under insurance contracts with full insurance benefits.

These Guidelines are addressed to the national insurance undertakings within the meaning of the Act on Insurance Activity. The Guidelines should also be applied by the main branches of foreign insurance undertakings. In terms of the manner in which insurance claims settlement processing should be conducted and the manner of calculating the amount of insurance benefits, the Guidelines should also be applied by foreign insurance undertakings established in the Member States of the European Union / Member States of the European Free Trade Association (EFTA) - parties to the European Economic Area agreement, that are pursuing insurance activity in the territory of the Republic of Poland with respect to motor vehicle insurance on the terms specified in the Act on Insurance Activity.

This document contains 21 Guidelines which have been divided into the following areas:

– organisation, management, supervision and control of motor vehicle insurance claims settlement process,
– manner of conducting motor vehicle insurance claims processing,
– method of insurance benefit calculation.

The supervision authority expects that decisions concerning the scope and manner of implementation of the solutions specified in these Guidelines will be preceded by an in-depth analysis and will be supported by an appropriate line of reasoning.

In addition, it is recommended that when some of the activities of insurance undertakings with respect to motor vehicle insurance claims settlement are outsourced to the third parties, insurance undertakings should make every effort to ensure that these third parties carry out the outsourced activities in accordance with the scope of these Guidelines. Simultaneously, in agreements with third parties, insurance undertakings should include appropriate clauses that guarantee the application of standards set in these Guidelines by these parties also with respect to the outsourced activities.

Guidelines from 1 to 13 should be applied to all types of insurance claims settlement. Other guidelines should be applied to motor vehicle insurance claims settlement.

The supervision authority expects that the standards defined in these Guidelines are implemented by the supervised entities not later than by 31 March 2015. The Guidelines should be applied in accordance with the "comply or explain" principle. If the insurance undertakings withdraw from application of the Guidelines, the supervision authority expects that these undertakings explain the reasons for failing to apply the Guidelines in their business activity. Information on the application of these Guidelines should be provided on the form which insurance undertakings fill out as part of their own assessment of compliance with the Guidelines and which constitutes one of the ways to verify by the supervision authority whether or not and in what manner the Guidelines have been implemented by insurance undertakings. Insurance undertakings hold the responsibility for the application of the standards defined in these Guidelines. In particular, it is unacceptable to shift this responsibility to the third parties.

II. Glossary

Amortization - reduction of the value of a spare part guaranteed as a part of the insurance benefit indemnifying the damage to the vehicle under the motor vehicle insurance contract, resulting from the difference between the value of a new part used in the repair of the vehicle and the value that takes into account the degree of wear and tear of a part damaged in the accident.

AVS - authorised vehicle service - vehicle service authorised by the manufacturer or importer of the vehicle.

O parts - new, original spare parts, coming directly from the manufacturer of the vehicle.

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

Q part - new spare parts of the same quality as the parts coming directly from the vehicle manufacturer (manufactured according to the production specifications and standards established by the vehicle manufacturer), produced by the same manufacturer that supplies the vehicle manufacturer with parts for the assembly of vehicles or replacement parts (also known as parts equivalent to the original ones).

Managers – people managing areas of insurance undertakings' business activity (including members of the Management Board) in which expertise in motor vehicle insurance claims settlement is used, and managing organisational units involved in this process.

Liquidator - a person performing activities in the course of insurance claims processing, in particular regarding: collection of necessary documentation for claims processing, inspection of the damaged assets, determination of the scope of liability of the insurance undertaking, contacting the beneficiary under insurance contract in the course of insurance claims processing, determination of the value of insurance benefits. Whenever the Guidelines mention the liquidator, it also means a group of people carrying out activities in the course of insurance claims processing, if in a given insurance undertaking a team of people is responsible for insurance claims settlement.

Cost estimate method - a method of determining the amount of insurance benefits due to damage to the vehicle, based on a calculation adopted by the insurance undertaking, which specifies the planned cost of repairing the damaged vehicle.

Service method - a method of determining the amount of insurance benefits due to damage to the vehicle, based on the invoice or bill issued by the repair workshop that performed the repair of the damaged vehicle.

Supervision authority – Polish Financial Supervision Authority.

Vehicle - mean of transportation whose owner is obliged under the Act on Compulsory Insurance to purchase motor third party liability insurance.

Insurance claim settlement process - a process comprising of activities aimed at clarifying the circumstances necessary to establish the insurance undertaking's liability for a fortuitous

event and possibly the amount of insurance benefit and acceptance or denial of benefit payment within the period required by the applicable law or the insurance contract.

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

Internal control system - a system covering all control mechanisms operating in the insurance undertaking, and in particular: internal control organisation, administrative and accounting procedures, relevant management information principles at all levels of the insurance undertaking's organisational structure, and compliance function within the insurance undertaking, which ensures compliance with the law, internal regulations and guidelines of the supervision authority.

Management system – a system consisting of a transparent organisational structure, in which responsibilities are clearly assigned and appropriately distributed, and ensuring effective transfer of information and decision-making process.

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 Guidelines exceeds the market value of the vehicle before the damage occurred.

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 Guidelines does not exceed the market value of the vehicle before the damage occurred.

Vehicle insurance – motor third party liability insurance, casco insurance, personal accident insurance for drivers and passengers, and roadside assistance insurance.

Roadside assistance insurance - voluntary insurance against roadside assistance costs in case of a fortuitous event occurance in connection with the use of the vehicle, as specified in the insurance contract.

Casco insurance - voluntary insurance of the vehicle from the effects of fortuitous events, in particular from 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 –liability insurance of motor vehicle owners agaunst losses arising from the use of their vehicles, referred to in Article 4.1 of the Act on Compulsory Insurance.

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

Act on Insurance Activity – Act of 22 May 2003 on Insurance Activity (Dz. U. of 2013 item 950, as amended),

Act on Compulsory Insurance - Act of 22 May 2003. on compulsory insurance, Insurance Guarantee Fund and Polish Motor Insurers' Bureau (i.e.: Dz. U. of 2013., item. 392, as amended.)

Loss of commercial value (loss of market value of the vehicle) - loss of the vehicle value due to occurrence of a fortuitous event affecting the vehicle, resulting in the liability of the insurance undertaking. It is determined by the difference between the market value of the vehicle before damage and its value under the same market conditions, after a properly carried out post-accident repair in accordance with the technology recommended by the manufacturer, in a repair workshop that meets requirements in terms of technology and human resources to perform such repair.

Insurance undertaking - domestic insurance undertaking and foreign insurance undertaking that carries out its business activity in the territory of the Republic of Poland with respect to motor vehicle insurance.

Full compensation principle – for motor third party liability insurance, the principle defined in Article 361 § 2 of the Act of 23 April 1964 Civil Code (i.e. Dz. U. of 2014 item 121), according to which, within the limits of an adequate cause-and-effect relationship, compensation should, in principle, correspond to the amount of damages suffered by the injured party and compensate for the damage which affected the injured party's legally protected goods or interests.

Lodging a claim - notification of the insurance undertaking of the damages in the case of motor third party liability insurance and notification of the insurance undertaking of a fortuitous event in case of casco insurance, personal accident insurance and roadside assistance insurance.

III. List of Guidelines

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

Guideline 1

Insurance undertaking should have an appropriate organisational structure for proper motor vehicle insurance claims settlement.

Guideline 2

Management Board of insurance undertaking should ensure effective management of motor vehicle insurance claims settlement function.

Guideline 3

Supervisory Board of insurance undertaking must effectively supervise the performance of motor vehicle insurance claims settlement function.

Guideline 4

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 in which claims processing is conducted.

Guideline 5

Insurance undertaking should implement an effective internal control system in the motor vehicle insurance claims settlement area. The system should be designed and operated in such a manner as to support the Management Board and the Supervisory Board of the insurance undertaking in terms of responsibilities associated with managing and supervising the insurance undertaking's activities in this regard.

Guideline 6

Insurance undertaking should develop, adopt and ensure the functioning of a management information system on motor vehicle insurance claims settlement, which is tailored to the scale of the insurance undertaking's business activity and the size and risk profile of that activity, which is an integral part of the insurance management system, and which allows identification of risks occurring in motor vehicle insurance claims settlement.

Guideline 7

Insurance undertaking should ensure that outsourcing of motor vehicle insurance claims settlement activities to external entities does not lead to deterioration of the motor vehicle insurance claims settlement process and the management system of the insurance undertaking, in particular, to excessive exposure to operational risk and reputation risk.

Guideline 8

Insurance undertaking should develop, adopt and ensure the functioning of the liquidators remuneration system which guarantees efficient motor vehicle insurance claims settlement.

Guideline 9

Insurance undertaking should ensure that the employees of motor vehicle insurance claims settlement units have competencies and knowledge in the area of the activities performed, in particular through the access to training in the area of motor vehicle insurance claims settlement.

Manner of conducting motor vehicle insurance claims processing

Guideline 10

Insurance undertaking should conduct the vehicle insurance claims processing in such manner that ensures payment of insurance benefits or a decision on refusing to pay insurance benefits in whole or in part within the dates specified in the applicable law and the insurance contract.

Guideline 11

Communication between the liquidator and the entities with which the liquidator is in contact in the course of the motor vehicle insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of the fortuitous event, should be conducted with due diligence required by the professional nature of the insurance activity conducted by the liquidator.

Guideline 12

Insurance undertaking should develop, adopt and ensure that procedures defining communication between the liquidator and the entities with which the liquidator is in contact in the course of the motor vehicle insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of the fortuitous event, are part of the management system in the insurance undertaking.

Guideline 13

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

Guideline 14

Insurance undertaking should provide beneficiaries with complete and clear information on the manner of determining the amount of insurance benefit.

Method of insurance benefit calculation

Guideline 15

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

Guideline 16

Insurance undertaking should determine insurance benefit under the motor third party liability insurance contract in the amount that takes into account deliberated costs and economically justified costs of new parts and materials used for the repair of the damaged vehicle. If insurance undertaking proves that the repair has led to an increase in the value of the vehicle in relation to its value prior to the occurrence of an insured event covered by the contract, it may reduce the value of insurance benefit by an amount corresponding to such an increase.

Guideline 17

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

Guideline 18

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

Guideline 19

Insurance undertaking should not determine the amount of insurance benefit that results in limitation of the beneficiary of motor third party liability insurance contract as to the possibility of repairing the vehicle, when total loss did not occur. Insurance undertaking should use the same criteria for calculation of insurance benefit regardless of whether it determines the amount of insurance benefit in the case of partial loss, or it examines if it is justifiable to deem the loss to be a total one. If the loss is deemed to be a total one, insurance undertaking should provide the beneficiary with assistance as to the use of the remaining parts of the vehicle.

Guideline 20

Liability of insurance undertaking under the motor third party liability insurance contract for damage or destruction of a vehicle, in particular of the vehicle that is not used to

conduct business activity, includes deliberated and economically justified expenses for rental of a replacement vehicle.

Guideline 21

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

IV. Guidelines

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

1. Guideline 1

Insurance undertaking should have an appropriate organisational structure for proper motor vehicle insurance claims settlement.

1.1. The organisational structure should be flexible enough to be adapted in a timely manner to changes in the scope of the business activity carried out by the insurance undertaking or its business environment related to the motor vehicle insurance claims settlement.

1.2. Insurance undertaking should have documentation specifying the organisational structure of the insurance undertaking, including motor vehicle insurance claims settlement process. The documentation should specify, in particular, organisational units responsible for the process of motor vehicle insurance claims settlement, together with an indication of the areas of responsibility and the rules of reporting to managers.

1.3. Employees of the insurance undertaking responsible for submitting on behalf of the insurance undertaking the declarations of intent on acceptance or refusal to pay the claim in whole or in part should have valid authorisations that specifies the scope of their authorisation.

2. Guideline 2

Management Board of insurance undertaking should ensure effective management of motor vehicle insurance claims settlement function.

2.1. Management Board undertakes measures that are necessary for proper and prudent management of the motor vehicle insurance claims settlement area, including identifying, measuring, monitoring and managing the risks associated with this area.

2.2. Management Board should appoint a person responsible for supervision over motor vehicle insurance claims settlement, who has a competence in this area resulting from his/her expertise and professional experience.

2.3. Management Board should examine on a regular basis the current situation in the motor vehicle insurance claims settlement area, in particular, it should analyse the reports containing aggregate data which are essential from the perspective of the insurance undertaking's business activity profile.

3. Guideline 3

Supervisory Board of insurance undertaking must effectively supervise the performance of motor vehicle insurance claims settlement function.

3.1. Supervisory Board should monitor and supervise the measures taken by the Management Board that are necessary to identify, measure, monitor and manage the risks associated with the motor vehicle insurance claims settlement function.

3.2. Supervisory Board should periodically, at least three times a year, receive the reports from the Management Board with the information on important issues occurring in the motor vehicle insurance claims settlement function with aggregate data referring to the area, which are essential from the perspective of the insurance undertaking's business activity profile.

4. Guideline 4

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 in which claims processing is conducted.

4.1. Procedures, drawn up in Polish, should be sufficiently clear, precise and comprehensive to ensure compliance of the insurance undertaking's activities with the law. These procedures should cover in particular:

- process of filing a claim,
- process of determining the actual circumstances of an event covered by insurance,
- manner of communication between the liquidator and entities with which the liquidator stays in contact in the course of insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of a fortuitous event,
- manner of performance of disclosure obligations by the insurance undertaking in the course of insurance claims processing,
- manner of regular monitoring of the beneficiary and other entities (in particular, courts, prosecutor offices, police and other authorities and institutions), in case of delays on the part of those entities in providing the documentation necessary to establish liability of the insurance undertaking and the amount of insurance benefit,
- manner of determining the insurance undertaking's liability,
- manner of determining the amount of insurance benefit,
- manner of ensuring timely insurance claim processing,
- process of dealing with complaints in connection with the insurance claim processing,
- manner of collecting and archiving insurance claims documentation.

4.2. Procedures should be designed in a manner that ensures that tasks of the insurance undertaking‘s organisational units and job positions do not overlap, and there are no uncovered areas of responsibility.

4.3. Insurance undertaking should supervise the application of procedures, in particular, it should ensure that employees of the insurance undertaking have read and understood these procedures, it should control the proper carrying out of these procedures, and development of their modifications, in order to ensure that insurance claims processing is conducted in an optimal manner from the perspective of insurance undertakings’ business activity, law requirements and protection of the interests of beneficiaries.

4.4. In order to ensure the correct application of the procedures, insurance undertaking apply means to make a permanent record and have full control of insurance claims processing, e.g. recording telephone calls in the course of the insurance claims processing, using the tool of a “mystery client".

4.5. Procedures and their application should be subject to a regular review and verification by the Management Board and under the internal control system, at least once a year and whenever significant changes in the activities of the insurance undertakings are introduced. Review or verification should be documented.

5. Guideline 5

Insurance undertaking should implement an effective internal control system in the motor vehicle insurance claims settlement function. The system should be designed and operated in such a manner as to support the Management Board and the Supervisory Board of the insurance undertaking in terms of responsibilities associated with managing and supervising the insurance undertaking’s activities in this regard.

5.1. As part of the internal control system, insurance undertaking should have an effective system for identification of irregularities in the motor vehicle insurance claims settlement function and a system for reporting of these irregularities that is adequate to the scale of business activity, which, in particular, should determine frequency, recipients and the minimum content of these reports.

5.2. Insurance undertaking should have tools for ongoing monitoring of the insurance claims processing for e.g.: timeliness, the occurrence of catastrophic events, (filing) lodging claims exceeding the standard value, claims in case of which there is a suspicion of attempted extortion of insurance benefits.

5.3. As part of the internal control system, insurance undertaking should, systematically monitor compliance of the insurance claims settlement process with the law, Supreme Court judgements based on it and with established judgements of common courts, as well as guidelines of the supervision authority and internal procedures.

5.4. In the motor vehicle insurance claims settlement area, insurance undertaking should ensure the compliance with the law, Supreme Court judgements based on it and with established judgements of common courts, as well as with the guidelines of the supervision

authority and internal procedures of the insurance undertaking. The compliance function should include, in particular: assessment of possible impact of any changes in the legal environment on the motor vehicle insurance claims settlement area, identification and assessment of risks associated with compliance with the law, internal regulations of a given insurance undertaking and guidelines of the supervision authority and also Management advising in this respect.

5.5. If justified by the scale of insurance undertaking's business activity as well as the size and risk profile associated with that activity, the insurance undertaking should provide controls / audits of motor vehicle insurance claims settlement by controllers / auditors specialised in this field.

5.6. Internal audit of insurance undertaking should consist of a regular assessment of at least adequacy, effectiveness and efficiency of the internal control system.

5.7. Auditors / controllers should act in an objective and independent manner. Objectivity and independence is limited in particular when an auditor / controller examines operational activities in the motor vehicle insurance claims settlement function for which they were responsible in the year preceding the examination.

5.8. If, due to the possibility to provide an advisory service by the auditors / controllers, their independence or objectivity may be limited, such limitation must be disclosed by them and properly reported.

5.9. Motor vehicle insurance claims settlement function should be included in the internal audit / internal control plans that are based in particular on the documented risk assessment methodology within this function. When making internal audit / internal control plans in the motor vehicle insurance claims settlement function, insurance undertaking should take into account in particular: the degree of centralisation of the motor vehicle insurance claims settlement process and technological advancement of the insurance undertaking, as well as the scope of authorisations granted and the range of activities outsourced to external entities.

5.10. Reports of the internal audits / internal controls should be communicated to the managers of the insurance undertaking's organisational units undergoing audit / control after each audit / control, regardless of whether any irregularities have been identified.

5.11. Results of internal audits / internal controls should always be documented and reported to the Management Board, the Audit Committee or the Supervisory Board. The implementation process of the recommendations issued following the internal audits or internal controls should undergo monitoring and proper supervision.

6. Guideline 6

Insurance undertaking should develop, adopt and ensure the functioning of a management information system on motor vehicle insurance claims settlement, which is tailored to the scale of the insurance undertaking's business activity and the size and risk profile of that

activity, which is an integral part of the insurance management system, and which allows identification of risks occurring in motor vehicle insurance claims settlement.

6.1. Functioning of an adequate management information system related to the internal control system should be based on written procedures adopted by the competent body of the insurance undertaking in accordance with the law, statutes and internal regulations in force. These procedures should take into account organisational structure of the insurance undertaking, the tasks performed in the motor vehicle insurance claims settlement process, IT systems used in this process, human resources of the insurance undertaking and the division of tasks within the Management Board.

6.2. Management information system should be designed and managed in such a way as to provide support to the Management Board and the Supervisory Board.

6.3. Management information system should provide the managers - at different levels of management - with access to accurate and reliable information in the process of vehicle insurance claims settlement process that is relevant to the insurance undertaking's business profile, including in particular:

– timely payment of insurance benefits,

– timely fulfillment of statutory disclosure obligations,

– data on insurance benefit payments,

– data on denials of insurance benefits payments,

– the number of complaints submitted to the insurance undertaking in reference to the motor vehicle insurance claims settlement process,

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

– data on claims provisions and their adequacy

6.4. Management information intended for managers at different levels of management should be transferred on a regular basis, in particular: daily, weekly, monthly, in order to ensure the best possible use of the data contained in them in the process of ongoing management, monitoring and supervision of motor vehicle insurance claims settlement process and risks present in the process.

6.5. Procedures governing the management information system and functioning of this system should undergo review at least once a year.

7. Guideline 7

Insurance undertaking should ensure that outsourcing of motor vehicle insurance claims settlement activities to external entities does not lead to the deterioration of motor vehicle insurance claims settlement process and the management system of the insurance undertaking, in particular, to excessive exposure to operational risk and reputation risk.

7.1. Insurance undertaking should immediately inform the supervision authority of the conclusion of a contract with an external entity, the subject of which is outsourcing to this entity the activities involving submission of declarations of intent with regard to claims.

7.2. Outsourcing of activities in the field of motor vehicle insurance claims settlement to an external entity does not exempt the insurance undertaking from liability for the quality and timeliness of these activities.

7.3. Insurance undertaking should have outsourcing procedures that are current, complete, compliant with the law and adequate to the characteristics, scale and complexity of its business activity, and that specify in particular the method of selecting an external entity, the information to be included in the contract with such an entity, contract template, as well as specific conditions for carrying out the outsourced activities, and the process of analysing risks associated with outsourcing.

7.4. Procedure of selecting an external entity should include the risks associated with the outsourced activities and cover in particular: assessment of the security level and quality of the performed activities ensured by this entity.

7.5. Insurance undertaking should analyse the risks associated with the bankruptcy of an external entity or sudden termination of cooperation by the entity, and have effective contingency plans related to the occurrence of such situations.

7.6. Insurance undertaking should monitor the quality of services provided by external entities, and important findings resulting from such monitoring should be periodically presented to the Management Board of the insurance undertaking as a part of the management information system. The scope, frequency and methods of monitoring and reporting should take into account specificity of the services provided and their significance from the perspective of continuity and security of activities performed by the insurance undertaking.

7.7. A contract with an external entity, concluded (entered into) by insurance undertaking, the subject of which is outcoursing of activities regarding motor vehicle insurance claims settlement should determine in particular:

– obligation of the external entity to perform outsourced activities to ensure compliance of the motor vehicle insurance claims processing with the applicable law,

– detailed manner of carrying out the outsourced activities that ensures compliance of the activities performed by the external entity with the motor vehicle insurance claims settlement procedures that are in force in the insurance undertaking,

– obligation of the external entity to inform the insurance undertaking of any events that may have a significantl influence on its ability to perform the outsourced activities or compliance of the insurance undertaking’s activities with the applicable law within the scope of outsourcing,

– principles of liability of the external entity for failure to perform or for improper performance of its obligations (including, e.g. stipulation of contractual penalties),

– clearly defined contract performance control mechanisms (i.e. principles for evaluation of the cooperation with an external entity, specific rules for the control of the external

entity by the insurance undertaking, including the scope of control, rules and deadlines for the exercise of follow-up recommendations by the external entity),

- scope of information and documentation transferred to the insurance undertaking by the external entity in connection with the activities being performed,
- rules of reporting to the insurance undertaking by an external entity within the scope of outsourced activities, including e.g. rules for drawing up statistics for activities performed by the external entity that enable the assessment by the insurance undertaking of the efficiency and quality of the outsourced activities in the field of motor vehicle insurance claims settlement,
- provisions to ensure that a conflict of interest between the external entity and insurance undertaking is identified and properly managed,
- clearly defined system of mutual settlements between the insurance undertaking and external entity,
- clearly and specifically defined terms of contract termination, including time limits for contract termination as a result of a notice of termination appropriate to the scale of the outsourced activities,
- terms of further outsourcing (suboutsourcing), including provisions to ensure that it does not violate the obligations of the external entity in reference to the insurance undertaking.

8. Guideline 8

Insurance undertaking should develop, adopt and ensure the functioning of liquidators' remuneration system which guarantees efficient motor vehicle insurance claims settlement.

8.1. Procedures for determining the liquidator's remuneration system should clearly, transparently and precisely specify the following:

- manner of determining the amount of base salary based on objective criteria and taking into account the nature of work performed, qualifications required for its performance, and quantity and quality of work,
- methods of determining variable remuneration components (e.g. task bonuses, awards, quarterly and annual bonuses, etc.) based on quantitative and qualitative criteria referring to the work performed, if such components are part of the liquidators' remuneration system in the insurance undertaking,
- manner of verification if the objective criteria underlying the entitlement to the variable components of remuneration are met.

8.2. Insurance undertaking should not make the liquidator's remuneration dependent on the amount of benefits paid by him/her.

8.3. Procedures for determining the liquidators' remuneration system should include elements motivating liquidators to carry out their functions in a manner characterized by:

– high quality of work,

– fast pace of claims processing,

– compliance with the law and internal regulations of the insurance undertaking, in particular requiring the insurance undertaking to respect the principle of full compensation,

– claims processing that results in the reduction of complaints, or a low number of such complaints,

– care about the insurance undertaking's reputation.

8.4. Insurance undertaking should supervise the process of applying procedures that define the liquidators' remuneration system. This process should guarantee the control of the correct implementation of the adopted liquidators' remuneration system, and development of its modifications, in particular to ensure that the insurance claims processing is optimal from the perspective of the insurance undertakings' business activity, requirements under the applicable law and protection of the beneficiary's interests.

8.5. Procedures for determining the liquidators' remuneration system and their application should undergo review at least once a year.

9. Guideline 9

Insurance undertaking should ensure that the employees of motor vehicle insurance claims settlement units have competencies and knowledge in the area of the activities performed, in particular through the access to training in the area of motor vehicle insurance claims settlement.

9.1. Insurance undertaking should organise regular training for employees of the motor vehicle insurance claims settlement units, which should cover issues relevant from the perspective of compliance of the insurance undertaking's business activity with the applicable law, Supreme Court judgments based on it and with established judgments of common courts and the guidelines of the supervision authority.

9.2. Insurance undertaking should appoint one of its managers as a person responsible for defining the scope of knowledge related to the area of motor vehicle insurance claims settlement that would be adequate to different job positions and the form in which such knowledge is transferred.

9.3. The knowledge may be transferred through dedicated training, presentations, reports. The person referred to in Guideline 9.2 should be involved in the definition of the scope of training and in preparation of the training plan.

Manner of conducting the motor vehicle insurance claims processing

10. Guideline 10

Insurance undertaking should conduct the vehicle insurance claims processing in such manner that ensures payment of insurance benefits or a decision on refusing to pay insurance benefits in whole or in part within the dates specified in the applicable law and concluded insurance contract.

10.1. Upon receiving of a claim, insurance undertaking should independently and actively take all objectively possible measures within the insurance claims processing (e.g. to obtain information from police units, witnesses reports), in particular, insurance undertaking should not wait for a court judgment in a situation where objective self-determination of liability or the amount of insurance benefit by the insurance undertaking is possible.

10.2. When justified, within the dates specified in the applicable law and insurance contract, insurance undertaking should pay the undisputed part of insurance benefit in the amount corresponding to the size of damage determined on the date when decision to pay the undisputed portion of benefit was made.

10.3. Any claim lodged together with the notice about a fortuitous event or with the notice about the damage or at a later date, should be considered with regard to the obligations arising from the applicable law, in particular with regard to the time frames and disclosure obligations.

10.4. Insurance undertaking should not make the commencement or continuation of motor vehicle claims processing dependent on the presentation, by the beneficiary or the person submitting the claim, of documents confirming conclusion of insurance contract.

10.5. Insurance undertaking cannot shift on the beneficiary or the claimant the obligation to obtain and provide the documents needed to establish liability of the insurance undertaking or the amount of insurance benefit, if the insurance undertaking alone may obtain such documents on the basis of the applicable law.

11. Guideline 11

Communication between the liquidator and the entities with which the liquidator is in contact in the course of the motor vehicle insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of the fortuitous event, should be conducted with due diligence required by the professional nature of the insurance activity conducted by the liquidator.

11.1. Notifying the claimant by the insurance undertaking about the documents required to establish liability of the insurance undertaking in a form other than written, requires explicit consent of the claimant.

11.2. Written notification of the insurance undertaking sent within the time frames indicated in the Act or in the insurance contract, to the claimant, about the reasons for the inability to satisfy their claim in whole or in part, must include an indication of the specific

cause preventing settlement of claim in a given case, indication of the likely date at which it would be possible and, if the reason refers to the claimant, an indication of how the claimant should cooperate with the insurance undertaking in order to complete the claim processing.

11.3. Notification that the insurance benefit does not apply or its amount is different than that specified in the claim should indicate specific circumstances and the legal basis justifying the refusal to pay the insurance benefit.

11.4. Upon request of beneficiaries in the light of the Act on Insurance Activity, insurance undertaking should promptly provide them with the information and documents collected to determine its liability or the amount of the insurance benefit.

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

12. Guideline 12

Insurance undertaking should develop, adopt and ensure that procedures defining communication between the liquidator and the entities with which the liquidator stays in contact in the course of the insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of the fortuitous event, are part of the management system in the insurance undertaking.

12.1. In accordance with the procedures, the beneficiary or the claimant, immediately after lodging the claim should be provided with contact details of the liquidator conducting the insurance claims processing initiated with this filing, to enable direct contact with the liquidator. If a team of people (liquidators) is responsible for settlement of the claim in a given insurance undertaking, it is sufficient to provide contact details of one of the liquidators.

12.2. These procedures should ensure:

– fast and easy access to the liquidator involved in processing of the claim,

– provision of comprehensive explanations by the liquidator,

– high quality of the information, and its objectivity, accessibility and comprehensibility,

– immediate access by the beneficiary or the claimant to the files of the claim processing.

12.3. Procedures of the insurance undertaking should ensure the possibility of making direct contact with the liquidator by the entities with which the liquidator stays in contact during the insurance claims processing, in particular by the claimant, beneficiary, policyholder, insured and the perpetrator of a fortuitous event, via telephone or e-mail, and also, if justified by the scale of the insurance business activity and the size and risk profile associated with this activity, the insurance undertaking may allow other forms of contact with the liquidator, e.g. personal contact or contact via the insurance undertaking’s website.

12.4. In accordance with the procedures, in the event that the liquidator contacts the entities with which the liquidator stays in contact in the course of insurance claims processing, in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of a fortuitous event, and this contact ends with making arrangements for further claims processing, such arrangements should be recorded in a form that allows for their future access to such recording.

12.5. In accordance with the procedures, in the course of claims processing, the liquidator, being in contact in particular with the claimant, beneficiary, policyholder, insured and the perpetrator of a fortuitous event, should avoid situations that may cause a conflict of interest. In the event that such conflict of interest arises, the liquidator must notify the insurance undertaking, and also should be able to withdraw from the insurance claims processing.

13. Guideline 13

Insurance undertaking should keep motor vehicle insurance claims settlement documentation, including in particular claim documentation and justification of the determination and adjustment of outstanding claims provisions, insurance benefits for a given loss, with due diligence 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 digital 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. Documentation for outstanding claims relating to any insurance claims processing should include evidence of dispatching and receiving by the insurance undertaking of individual letters in the course of correspondence exchanged in the process.

13.3. Documentation for outstanding claims relating to any insurance claims processing should include, in addition to the decision to pay insurance benefit, also confirmation of the actual payment of the insurance benefit on a given date.

13.4. Documentation for outstanding claims relating to any insurance claims processing should be numbered in the order of appearance of documents in the claim settlement process, regardless of whether the documentation for outstanding claims is maintained in paper or digital form.

14. Guideline 14

Insurance undertaking should provide beneficiaries with complete and clear information on the manner of determining the amount of insurance benefit.

14.1. Insurance undertaking on its own initiative should provide the beneficiary, with calculation of the vehicle repair costs based on which the value of insurance benefit is determined.

14.2. The calculation should include information concerning in particular:

– vehicle make,
– vehicle model,
– vehicle type,
– registration number,
– vehicle identification number,
– date of first registration (first entry into traffic)
– year of production and 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,
– parts quality (O, Q, P), which was taken into account in the calculation, their manufacturer and supplier,
– the number and the type of man-hours required to complete the repair of the vehicle,
– the price of parts and man-hour rates.

14.3. If the insurance undertaking proposes to settle the claim as a total loss, the insurance undertaking should provide the beneficiary with full valuation of the vehicle before and after the occurrence of the event covered by insurance, which is the basis for determining the amount of insurance benefit, including information on the type and amount of any adjustment to the vehicle value, as well as detailed information including the data specified in guideline 14.2 on the calculation of anticipated costs of repair of the damaged vehicle, which became the basis for recognition by the insurance undertaking that settlement of total loss is justified.

14.4. If in accordance with the vehicle value determination rules adopted by the insurance undertaking, application of a given vehicle value adjustment and its amount depends on the discretion of the liquidator, justification of such adjustment in a given amount should be explained to the beneficiary.

Method of insurance benefit calculation

15. Guideline 15

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

15.1. Regardless of whether the amount of insurance benefit is determined with the service method or the cost estimate method, the insurance undertaking should not apply practices leading to the violation of full compensation principle. In particular, if a claim is settled using the cost estimate method, the insurance undertaking cannot apply other criteria for accounting for prices of replacement parts and repair workshops services than in the case of claim settlement using the service method.

15.2. Calculation of vehicle repair costs, being the basis for determining insurance benefit using the cost estimate method should be made based on the market value of the services and replacement parts on the date when the amount of compensation was determined 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 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 place of residence or registered office of the beneficiary, or by repair workshops, which are able to perform repairs guaranteeing that the vehicle is restored to its pre-damage condition,

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

15.3. At the beneficiary's request, the insurance undertaking provides a detailed explanation on what basis the price of services used by repair workshops, referred to above, was determined. At the request of the beneficiary, the insurance undertaking is obliged to indicate the repair workshop providing repair service in the place of residence or registered office of the beneficiary which is able to make repairs to ensure restoration of the vehicle to its original condition at the price set forth by the insurance undertaking.

15.4. Insurance undertaking should not require the beneficiary to present documents certifying 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)

15.5. 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 disputed, , the insurance undertaking should justify the basis on which it assumed that the estimate is incorrect.

16. Guideline 16

Insurance undertaking should determine insurance benefit under the motor third party liability insurance contract in the amount that takes into account deliberated costs and economically justified costs of new parts and materials used for the repair of the damaged vehicle. If insurance undertaking proves that the repair has led to an increase in the value of the vehicle in relation to its value prior to the occurrence of an insured event covered by the contract, it may reduce the value of insurance benefit by an amount corresponding to such an increase.

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

16.2. While determining the insurance benefit, the insurance undertaking should not apply amortization. That principle applies to all damaged parts of the vehicle.

16.3. 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 value before the occurrence of the event covered by the motor third party liability insurance contract, the insurance undertaking may reduce the value of the insurance benefit by a value corresponding to this increase. The burden of proof in this regard rests with the insurance undertaking which should provide the beneficiary with a detailed valuation of the market value of the vehicle before and after the event, showing the increase in value of the vehicle as a result of the use of new parts for the vehicle repair.

17. Guideline 17

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

17.1. Insurance undertaking should include only the value of O parts in the case of vehicles covered with warranty of the manufacturer who makes the warranty conditional upon the use of only new replacement parts for repair.

17.2. 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, 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, the insurance undertaking determines insurance benefit amount using the prices of parts other than O parts, it should provide the beneficiary with detailed justification of such decision.

17.3. Subject to the Guidelines 17.1 and 17.2, while determining the amount of the insurance benefit using the cost estimate method, the 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.

17.4. While setting the amount of insurance benefit, the 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 overexploitation of parts in the vehicle, as well as the simplicity of the parts' design (that makes it possible to assess suitability for full restitution of such parts without complex examination). However, even in these cases, if the beneficiary has a particular interest in the use of O parts or Q parts, the insurance undertaking should determine insurance benefit taking into account the value of these parts.

17.5. If, on the terms set out in the Guidelines 17.3 and 17.4, the insurance undertaking takes into account the value of parts of lower quality (Q or P) than the part qualified for exchange (O or Q), it should provide the beneficiary with an personalised justification of such decision.

18. Guideline 18

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

18.1. Insurance undertaking should inform the beneficiary of:

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

– which entities are manufacturers of these parts,

– what is the warranty period for these parts,

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

18.2. Insurance benefit amount determined by the insurance undertaking under Guidelines 17.1- 17.4, in terms of cost of parts should allow the beneficiary to purchase a new part in place of the damaged one on the local market. If parts of lower quality are not available, in the calculation of insurance benefit, the insurance undertaking should take into account the value of parts of higher quality.

19. Guideline 19

Insurance undertaking should not determine the amount of insurance benefit that results in limitation of the beneficiary of motor third party liability insurance contract as to the possibility of repairing the vehicle, when total loss did not occur. Insurance undertaking should use the same criteria for calculation of insurance benefit regardless of whether it determines the amount of insurance benefit in the case of partial loss, or it examines if it is justifiable to deem the loss to be a total one. If the loss is deemed to be a total one,

insurance undertaking should provide the beneficiary with assistance as to the use of the remaining parts of the vehicle.

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

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

– impose on the beneficiary the obligation to document the vehicle repair with bills / invoices covering the total cost of repair before it takes place,

– for the purpose of determining whether it is possible to settle the claim as total loss, estimate the cost of vehicle repair at the highest man-hour rate in the local market (e.g. by AVS and using the O parts, if in reference to the same vehicle and the same claim, the same principles in the case of partial loss settlement would not be applied.

19.2. Insurance undertaking should estimate in the same manner the value of the vehicle immediately before the damage has occurred and the expected cost of vehicle repair, both during verification whether or not there are grounds for settling the claim as total loss, as well as in the event when the claim is qualified as partial loss, in particular regarding the value of parts O, Q and P, labour costs, as well as VAT.

19.3. In the event of total loss, the insurance undertaking should provide the beneficiary with assistance to dispose of vehicle remains, e.g. at the request of the beneficiary, independently present the beneficiary with an offer to purchase the remains at a price consistent with the valuation proposed by the insurance undertaking or to indicate an entity which is willing to purchase the remains at this price.

19.4. In the absence of the possibility to sell the remains at a price consistent with the valuation proposed by the insurance undertaking, the insurance undertaking should adjust the amount of insurance benefit accordingly.

20. Guideline 20

Liability of insurance undertaking under the motor third party liability insurance contract for damage or destruction of a vehicle, in particular a vehicle that is not used to conduct business activity, includes deliberated and economically justified expenses for rental of a replacement vehicle.

20.1. Insurance undertaking should individually consider each claim for reimbursement of replacement vehicle rental costs taking into account all the circumstances of the case.

20.2. Entitlement to insurance benefit on account of replacement vehicle rental costs should not be conditional upon the beneficiary's inability to use public transport.

20.3. Entitlement to insurance benefit on account of replacement vehicle rental costs should not be conditional upon the fact of conducting business activity by the beneficiary.

20.4. Entitlement to insurance benefit on account of replacement vehicle rental costs should not be conditional upon proving by the beneficiary, who uses the vehicle for personal purposes, that without renting the replacement vehicle, the beneficiary would experience another property loss. The entitlement should not be conditional upon proving by the beneficiary that the replacement vehicle is used to perform various activities of daily living, if the injured party has proven that they use the replacement vehicle in a different way.

20.5. In each individual case, the scope of compensation of replacement vehicle rental costs should be defined by the criterion of its purpose and economic justification. Insurance undertaking should therefore be obliged to reimburse the deliberated costs and economically justified costs allowing elimination of negative consequences for the beneficiary, which cannot be eliminated in a different way, maintaining a reasonable balance between the beneficiary's benefit and burden on the insurance undertaking.

20.6. Immediately upon lodging of claim, insurance undertaking should provide information on the principles of replacement vehicle rental costs recognition, in particular referring to the type / class of the rented vehicle, wherein the information should clearly state that the beneficiary may rent a replacement vehicle of substantially similar class for the time of repair of the damaged vehicle or the time necessary to purchase another vehicle, at prices in the local market. In assessing whether the claim for reimbursement of replacement vehicle rental costs is justified, the insurance undertaking should also take into account the facts that indicate when renting a replacement vehicle is superfluous.

20.7. Reimbursement applies not only to the deliberated and economically justified cost of rental which has been actually paid by the beneficiary, but also the cost of rental payable, but still unpaid.

20.8. Insurance benefit paid by the insurance undertaking should cover reimbursement of expenses for the period of replacement vehicle rental necessary to repair the damaged vehicle or purchase a new vehicle by the beneficiary in the specific case. Insurance undertaking should not automatically determine the time frame of liability for replacement vehicle rental cost, in particular, limit the time frame to the so-called technological repair period (which includes only theoretically estimated amount of man-hours necessary to repair the vehicle) without taking into account other objective factors affecting duration of the beneficiary's inability to use their own vehicle.

20.9. Insurance undertaking may make deductions from insurance benefit for replacement vehicle rental costs by the costs of using beneficiary's own vehicle not incurred by the beneficiary (in particular the cost of fuel, tires). However, deduction from insurance benefit in this regard should be based on clear and individual basis. It is unacceptable to use deductions in the unjustified form of lump-sum or other arbitrary adjustments.

20.10. Adjustment of insurance benefit in relation to claim lodged by the beneficiary is possible only upon presentation by the insurance undertaking of a written justification. Insurance undertaking is obliged to provide detailed justification for only partial recognition of the claim made by the beneficiary in comparison with the replacement vehicle rental costs incurred by the beneficiary.

21. Guideline 21

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

21.1. Upon receiving of claim, the insurance undertaking should inform the beneficiary about the possibility to lodge a claim for the loss of the commercial value of the vehicle regardless of the form and manner of lodging the claim.

21.2. On its own initiative, following the principle of prudent management of insurance undertaking, the insurance undertaking should examine whether it is justified to include in the insurance technical provisions the potential liability of the insurance undertaking for the loss of commercial value of the vehicle resulting from damage and after taking into account the vehicle repair in connection with this damage, regardless of the whether the beneficiary has lodged claim in this regard or not.

21.3. While examining whether it is justified to include in the insurance benefit the loss of commercial value of the vehicle, the insurance undertaking should apply the principle of personalised assessment of the claim, taking into account all the circumstances of the case.