



## Health Insurance Profit-sharing Regulation

*(KV-GBV; Krankenversicherung-Gewinnbeteiligungsverordnung)*

### Full title

Regulation of the Financial Market Authority (FMA) on the participation in profits in health insurance (KV-GBV; Krankenversicherung-Gewinnbeteiligungsverordnung)

**Original Version:** Federal Law Gazette II No. 309/2015

### Preamble/Promulgation clause

Based on Article 102 para. 3 in conjunction with Article 92 para. 4 of the 2016 Insurance Supervision Act (VAG 2016; Versicherungsaufsichtsgesetz 2016), published in Federal Law Gazette I No. 34/2015, last amended by federal act in Federal Law Gazette I No. 112/2015, the following shall be determined by Regulation:

### Text

#### Scope of application

**Article 1** (1) This regulation applies for insurance policies for health insurance similar to life assurance from direct business, which according to the terms of the insurance policy stipulate a share of the profits. It also covers insurance policies that stipulate the refunding of premiums dependent on the financial result of the insurance undertaking.

(2) The provisions set out in Articles 2 and 3 shall only apply to health insurance policies pursuant to para. 1, which were concluded upon the basis of actuarial bases that were submitted to the FMA after 30 June 2007. The provisions shall not apply, in the event that the actuarial bases were merely submitted in order to adjust the actuarial bases that were already used prior to 1 July 2007 to take into account the modified costs of healthcare or the changed probabilities of benefits being claimed.

#### Minimum profit sharing amount

**Article 2.** (1) The expenditures for the provisioning of the provision for profit-dependent premium reimbursement (Article 146 para. 3 Item II.8. VAG 2016) plus any direct bonuses and any other additional amounts serving the purpose of financing an extraordinary increase of the premium reserve or to avoid increasing premiums, shall be at least 85% of the minimum assessment basis pursuant to Article 3 in every financial year (minimum profit sharing amount). It shall not be possible to deduce the claims of individual insurance policyholders from the appropriation of such contributions to the reserve for increasing age or shares thereof.

Excess provisions from previous financial years may be attributed to the minimum profit sharing amount pursuant to para. 1. The eligible amount shall be calculated on the basis of the excess provisions that are to be reduced in the following way: the reduction shall be 10% of the excess provisioning for every financial year following the excess provisioning; moreover all deductions that have already been made from preceding years are to be deducted. Excess provisions are to be calculated in chronological order, starting with the oldest excess provision, with the underlying expenses to be calculated up to the amount which they eligible.

#### Minimum assessment basis

**Article 3.** (1) The minimum assessment basis comprises of the following items, and shall be calculated for every balance sheet date:

1. + Earned premiums (Article 146 para. 3 Item II.1. VAG 2016);
2. + Income from investments and interest income (Article 146 para. 5 Item IV.2. VAG 2016);



3. - Expenses from investments and interest paid (Article 146 para. 5 Item IV.3. VAG 2016);
4. +Other technical income (Article 146 para. 3 Item II.3. VAG 2016);
5. - Expenses for claims incurred (Article 146 para. 3 Item II.4. VAG 2016);
6. - Increase in technical provisions (Article 146 para. 3 Item II.5. VAG 2016);
7. +Decrease in technical provisions (Article 146 para. 3 Item II.6. VAG 2016);
8. - Expenses for retained rebates (Article 146 para. 3 Item II.7. VAG 2016);
9. - Insurance operating expenses (Article 146 para. 3 Item II.9. VAG 2016);
10. - Other technical expenses (Article 146 para. 3 Item II.10. VAG 2016);
11. +Other non-technical income (Article 146 para. 5 Item IV.5. VAG 2016);
12. - Other non-technical expenses (Article 146 para. 5 Item IV.6. VAG 2016);
13. - Taxes on income (Article 146 para. 5 Item IV.11. VAG 2016);
14. +Release of the risk reserve pursuant to Article 143 VAG 2016 (Article 146 para. 5 Item IV.13.a VAG 2016);
15. - Transfer to the risk reserve pursuant to Article 143 VAG 2016 (Article 146 para. 5 Item IV.14.a VAG 2016);

(2) The amount of the minimum assessment basis as defined in Article 103 para. 2 in conjunction with Article 92 para. 4 VAG 2016 shall be the total of the items pursuant to para. 1 nos. 1 to 15.

(3) The following shall be taken into account for the calculation pursuant to paras. 1 and 2:

1. all items pursuant to para. 1 insofar as they relate to health insurance contracts pursuant to Article 1 para. 2; items that cannot be directly allocated to health insurance contracts pursuant to Article 1 para. 2, should be split as accurately as possible using a suitable key into the respective items.
2. the items pursuant to para. 1 nos. 2 and 3 in the ratio of the average coverage requirement of health insurance contracts pursuant to Article 1 para. 2 to the average total investments (Article 144 para. 2 Item B. VAG 2016) and cash at banks, cheques and cash in hand (Article 144 para. 2 Item F.II. VAG 2016) each related to the financial year.

(4) The allocation or releasing of deferred taxes shall not be taken into account in the calculation pursuant to para. 1.

(5) The insurance undertaking is authorised, when calculating the assessment basis pursuant to para. 1 to deduct a maximum of 5% of the earned premiums pursuant to para. 1 no. 1, that are allocated to health insurance contracts pursuant to Article 1 para. 2.

### Profit-sharing

**Article 4.** (1) In accordance with the profit plan and taking into consideration the opinion of the responsible actuary pursuant to Article 116 para. 1 no. 2 VAG 2016 the management board or the administrative board and the executive directors shall determine the amount of the participation in profits as part of the annual financial statement.

(2) The profits shall be split by means of statements in a manner appropriate to their origin pursuant to Article 1 para. 1 taking into consideration the accounting groups into health insurance contracts. Factually justified differentiations of the amount of the participation in profits shall be permissible; such differentiations shall be necessary if the omission of a differentiation would lead to a systematic and one-sided encumbrance of a part of the underwriting with the risks of other parts. A differentiation shall in particular be permissible with regard to different guarantees and options.

(3) Declared but not yet allocated profits shall be allocated within two years from the balance sheet date, to which the declaration relates, by means of a cash pay-out or offsetting against premiums or by increasing the individual premium reserve (reserve for increasing age).

### Entry into force and transitional provisions

**Article 5.** This regulation shall enter into force on 1 January 2016 and shall apply for the first time for financial years that begin after 31 December 2015. For financial years that end before 1 January 2016, the regulations set out in the Health Insurance Profit Sharing Regulation (GBVKVU - Verordnung über die Gewinnbeteiligung in der Krankenversicherung) published in Federal Law Gazette II No. 120/2007 in the version of the Regulation amended in Federal Law Gazette I No. 34/2015 shall apply.