

The scope of this report - by *Rokas (Tirana)* - is to present the legal regime framework related to insurance in the Republic of Albania, which is as follows below...

## 1. REGULATION

The insurance sector is governed by **Law no. 9267, date 29.07.2004 "On the Activity of Insurance, Reinsurance and Intermediary in Insurance and Reinsurance"**, as amended.

The aim of this law is to further regulate the licensing procedure for the insurance and intermediary undertakings, to increase the role of the Insurance Supervisory Authority through restructuring of its organizational and financial structure and empower the supervisory methodology through the establishment of an operating regulatory system. The outcome of these three objectives would enable the establishment of a stable, efficient and transparent market in the protection of the interests of insured.

Other relevant laws and regulations in this sector are:

- Law no. 9572, date 03.07.2006 "On Financial Supervisory Authority"
- Law no. 9879, date 21.02.2008 "On Securities"
- Decision of Council of Minister no. 79, date 28.01.2008 "On setting the criteria and procedures concerning insurance intermediaries' licensing and the rules of supervising their business, as well as, the cases of refusing the license"
- Regulation no. 41, date 28.05.2009 "On minimum liquidity of securities brokerage companies"
- Regulation no. 165, date 23/12/2008 "On the licensing of the brokerage/ intermediary companies, the broker and the investment advisor"
- Regulation no. 2, date 18.06.2007 "On Reinsurance Criteria"
- Regulation no. 6, date 08.02.2007 "On the Rules, Approaches and Conditions of Insurance Companies Reporting to the Financial Supervisory Authority"
- Regulation no. 14, date 08.02.2007 "On some criteria to be met by elected or appointed individuals in leading positions of insurance and reinsurance companies"
- Regulation no. 13, date 08.02.2007 "On the procedures for accepting and reviewing of applications regarding providing with license to conduct insurance or reinsurance business in the Republic of Albania".

## 2. INSURANCE AND REINSURANCE COMPANIES, BRANCH OFFICES OF FOREIGN INSURANCE COMPANIES AND DIRECT PROVISION OF INSURANCE SERVICES, WHEN APPLICABLE

Insurance activity is exercised by: a) the insurance company with its headquarters in the territory of the Republic of Albania, licensed by the Financial Supervisory Authority; b) the branch of a foreign insurance company licensed by the Financial Supervisory Authority.

The insurance activity is exercised by no other legal persons apart from those mentioned above.

The company that exercises the activity of life insurance cannot exercise at the same time the activity of non life insurance and vice versa. On the other hand, the reinsurance companies may exercise both activities at the same time (life insurance and non life insurance).

Direct insurance with a foreign company outside the territory of the Republic of Albania for a risk which pertains to a person, object or liability, which is in the territory of the Republic of Albania, shall not be allowed, unless otherwise is foreseen in the international agreements where Republic of Albania is a party, as well as in cases of risks insurance related to the sea or air transportation. The Financial Supervisory Authority can authorize direct insurance with a foreign company outside the territory of the Republic of Albania in the cases when the risk is not covered by the local company or the branch of the foreign company, which carries out its activity in the territory of the Republic of Albania.

To carry out an insurance activity, the company and the branch of the foreign company shall be licensed by the Financial Supervisory Authority. The insurance company carries out insurance activity only for the classes for which the license has been provided by the Financial Supervisory Authority. The license shall be unlimited in time, not transferable and not purchasable. The decision for granting the license for carrying out the activity shall be published in the Official Gazette. The decision granting the license becomes effective immediately after the publication in the Official Gazette.

The Financial Supervisory Authority keeps a special register where, for each licensed company or branch of a foreign company shall be registered the name, address of the seat of the company or branch of the foreign

company, license number, classes for which it has been licensed, shareholders, their shares in the capital of the company, as well as every change experienced by the company in the course of its activity.

### **3. INSURANCE SUPERVISION**

The Financial Supervisory Authority is the solely legal authority that licenses, audits and supervises the insurance activity in Albania with the aim to protect the insured's interest. The Financial Supervisory Authority is vested with competences for the regulation and supervision of:

- a. the securities market and the its activities, including the activities of other subjects investing in securities;
- b. the insurance market and its activities, which include all activities of insurance, re-insurance, brokerage intermediary and operations deriving from these activities;
- c. the supplementary pensions market and its activities of supplementary pensions market, which include all activities of insurance of supplementary pensions offered by private supplementary pensions institutions; and other non- banking financial activities .

The Financial Supervisory Authority keeps open register for the public regarding:

1. companies that exercise activities in the securities market (stock exchange);
2. public companies and issuers of securities;
3. investment companies;
4. companies that administer investment funds; and private institutions of pensions;
5. investment funds;
6. securities dealers and; investment advisors
7. insurance companies;
8. insurance agents;
9. companies that exercise activities as private pensions institutions.

It offers the services of issuing licenses:

- for insurance and reinsurance activities;
- for agencies in insurance and reinsurance;
- insurance and reinsurance brokers;
- damage handlers, insurance advisor.

The Financial Supervisory Authority gives prior written approval for the following legal actions:

- carrying out the activity outside the territory of the Republic of Albania;
- opening a representation office of a foreign company;
- transfer through an agreement to one or many insurance companies, the entire or part of the portfolio of contracts along with the rights and obligations;
- merging and division of the insurance company;
- amendments in the statute of the insurance company;
- the possession of shares by a shareholder, which is or exceeds the level of qualified shares in an insurance company;
- the investment of the capital of the insurance company in one or more non- banking financial institutions.

### **4. QUALIFICATIONS AND SUPERVISION OF THE MANAGEMENT**

The insurance company shall be organized as a joint stock company with the following managing bodies:

- a. Shareholders Assembly,
- b. Supervisory Council,
- c. Board.

The requirements regarding Supervisory Council member and Board member are as follows:

- a. university graduation;
- b. professional qualifications;
- c. no criminal record;
- d. no legal obstacles for performing these functions.

Also, board members are required to have an experience of not less than three years in the management of insurance companies and not less than four years in the management of a company with a similar activity or not less

than four years in the management of other financial institutions.

The applications for the above mentioned positions shall be submitted along with the above documents to the Financial Supervisory Authority, which verify the fulfilment of the abovementioned criteria and gives the approval for such positions.

## 5. CAPITAL REQUIREMENTS AND RESERVES

The insurance companies' capital shall consist of the establishment capital and the additional capital. The establishment capital shall not be less than the values determined in the guarantee fund and the additional capital, in any case, shall not be less than 5% of the establishment capital.

The establishment capital of the insurance company should consist at least in its two third in monetary resources. In calculating the establishment capital of an insurance company, the following elements are included:

- a. paid share capital,
- b. security reserve, which does not belong directly to the effective insurance contracts or those which have been effective;
- c. provisions of the insurance company (statutory and specified in the statute), which do not belong directly to the effective insurance contracts or those which have been effective,
- d. undistributed profit carried forward from previous years;
- e. undistributed profit which belongs to the financial year, after the subtraction of the taxes, other contributions and paid dividends;
- f. losses of the financial year and or due losses.

In calculating the additional capital of the company, the following elements shall be included:

- a. share capital paid on the basis of the preferential accumulated shares,
- b. instruments of the depending loan,
- c. securities of unlimited maturity.

The insurance company sets up and keeps every financial year with its own assets the security guarantee at the level of not less than 1/3 of the profit of the financial year, if the profit is not used for covering the losses inherited from the previous years. The insurance company which has accumulated a security reserve at a level not lower than 30% of the average premiums collected in the two last years, if the premiums of the previous years have been increased as result of the increase of price index, including the year for which the profit has been distributed, is not subject to the obligation to set up the security reserve from the profit.

## 6. INSURANCE INTERMEDIATION

The intermediary activity shall be carried out by the agents or companies of agents and brokerage companies. In order to carry out an intermediary activity in the Republic of Albania, the agent or broker shall be provided with a license by the Financial Supervisory Authority.

The brokerage company shall possess a financial guarantee equal to the level of minimal capital (ALL 5.000.000). The brokerage company shall insure an insurance company for the professional liabilities to the third parties for covering the liabilities, in the cases of violating the conditions of the intermediary contract, in an amount not less than ALL 30 million for an insurance case and not less than ALL 100 million for all the cases of insurance in a calendar year.

If the insured concludes an insurance contract through the agent of the company of agents, the insurance company shall be solely liable for the actions or omissions of the agent with regard to the insured. The brokerage company is liable for the losses suffered by the insured if these losses have been caused through negligence and misinformation of the insured.

The insurance company shall be obliged to keep a register for the authorized agents and companies of agents, with which it has concluded an intermediary contract. The insurance company shall, upon concluding or terminating a contract with an agent or company of agents, notify the Financial Supervisory Authority immediately. Also, the Financial Supervisory Authority keeps the register of agents, companies of agents, brokerage companies and branches of foreign intermediary companies licensed by it.

## 7. MARKETING AND SALES PRACTICES (CONSUMER PROTECTION)

The consumer protection, as important as it is in a growing market with so many uncertainties and violations, has not been left only to the Albanian Civil Code, but references are made even in **Law no. 9267, date 29.07.2004 "On the Activity of Insurance, Reinsurance and Intermediary in Insurance and Reinsurance"**, as amended. According to the latter, the insurance companies and the intermediaries should:

- a. perform their activities with professionalism, care and devotion to the insured;

- b. act in confidentiality and honesty to respect the insured' rights,
- c. inform the insured on the products of insurance, special and general conditions, expenses and profits that derive from the insurance contracts, fees and premiums which the insured has to pay;

The insurance company and the intermediaries shall be obliged that during the contract validity period, to inform the insured on the following:

- a. the change of name, address of its seat and branches through which insurance contract has been completed,
- b. the changes of the general conditions, validity period, the premium size, if the changes occur as a results of the changes in the company's acts.
- c. pay all claims in appropriate size and due time.

The insurance company and the intermediaries should not provide information, or submit a presentation that misinforms or deceives the consumer.

## **8. TYPES OF COMPULSORY INSURANCES**

According to Albanian legislation, the insurance sector activity is divided into 3 (three) groups: life insurance, non-life insurance activity and reinsurance. The non-life insurance activity includes compulsory and voluntary insurances. In the category of compulsory insurance is included the insurance within the transport sector, which consists of the following types of insurances:

- a. accident insurance of passengers in public transport;
- b. insurance of the owner or user of the vehicle against liability for damage caused to third parties;
- c. insurance of the owner or user of an aircraft against liability for damage caused to third parties and passengers;
- d. insurance of the owner or user of a motorboat or yacht against liability for damage caused to third parties.

## **9. INSURANCE MARKET**

According to the statistics of the Financial Supervisory Authority for the year 2012, the number of agents licensed exceeds 200. Almost 90% of the licensed agents belong to the company Sigal UNIQA Group Austria and the other remaining part of agents is licensed on behalf of the state company Insig sh.a.

Referring to the periodic newsletter of the Financial Supervisory Authority for the period January- October 2012, the market share for life insurance activity is as follows: Sigal Life UNIQA Group Austria 51.77%, Insig sh.a 28%, Sicred 20.21%.

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