

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

1. REGULATION

The main regulations regarding insurance in Montenegro are:

- Law on Insurance (Official Gazette of Montenegro no. 78/06; 19/07; 53/09; 73/10; 40/11; 45/12);
- Law on Compulsory Traffic Insurance (Official Gazette of Montenegro no. 44/12);
- Law on Bankruptcy and Liquidation of Insurance Companies (Official Gazette of Montenegro no. 11/07)

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

According to Article 4 of the Law on Insurance, insurance, coinsurance and reinsurance may be provided by an insurance or reinsurance company based in Montenegro (registered and seated in Montenegro), after obtaining a license, issued by the independent regulatory body (Montenegrin Insurance Supervision Agency).

Also, insurance, coinsurance and reinsurance may be provided by a branch office of a foreign company, after obtaining a license issued by the Montenegrin Insurance Supervision Agency.

Insurance brokerage may be provided by an insurance brokerage company that has an office in Montenegro, after obtaining a license issued by the Montenegrin Insurance Supervision Agency.

Insurance agency activities may be provided by an insurance agency and an individual that has a seat or residence in Montenegro, after obtaining a license issued by the Montenegrin Insurance Supervision Agency.

Ancillary service providers and the part of a company that is based in Montenegro may provide other insurance services, after obtaining a license issued by Insurance Supervision Agency.

Types of insurances, as recognized by law:

- Non-life insurance operations, depending on the type of risk to be covered, are classified into the following types of insurance:
 1. accident insurance;
 2. voluntary health insurance;
 3. motor vehicle insurance;
 4. insurance of rail vehicles;
 5. aircraft insurance;
 6. insurance of vessels;
 7. goods-in-transit insurance;
 8. property insurance against fire and other hazards;
 9. other non-life insurance;
 10. TPL motor vehicle insurance ;
 11. insurance of aircraft liability;
 12. liability insurance for the use of vessels;
 13. general liability insurance for damages;
 14. credit insurance;
 15. guarantee insurance;
 16. financial loss insurance;
 17. legal expense insurance;
 18. travel insurance;
 19. other types of life insurance.
- Life insurances, depending on the type of risk to be covered, are classified into the following types of insurance:
 1. life insurance;
 2. annuity insurance;
 3. supplementary insurance in addition to life insurance;
 4. other types of life insurance.

3. INSURANCE SUPERVISION

The Insurance Supervision Agency is the only authority empowered by Law on Insurance with jurisdiction to authorize, supervise and control insurance, coinsurance and reinsurance in Montenegro.

The Insurance Supervision Agency:

1. issues a license to engage in insurance, reinsurance and co-insurance, brokerage and advocacy and other activities directly related to insurance;
2. approves the acts and practices set forth in the Law on Insurance;
3. exercises supervision of the insurance industry;
4. adopts regulations stipulated by the Law on Insurance;
5. keeps records in accordance with the law;
6. considers complaints and appeals of insureds and other customers;
7. cooperates with other supervisory authorities in the country and abroad;
8. initiates legislative and other issues in the field of insurance.

The Insurance Supervision Agency keeps register of insurance companies licensed to conduct insurance business in Montenegro, with information about their founders, qualified shareholders, members of the board of directors and executive director/s, as well as the measures imposed in the process of monitoring the activities of companies.

The regulatory authority also keeps register of insurance brokers, insurance agencies and insurance agents, licensed or conducting insurance brokerage and agency activities; of authorized agents and authorized representatives, of agencies providing other insurance services and the registry of certified actuaries.

4. QUALIFICATIONS AND SUPERVISION OF THE MANAGEMENT

A member of the board of directors may be a person who has appropriate university degree and at least three years of experience in management positions in insurance or other fields that are related to the operations of insurance.

At least one member of the board of directors is required to understand the official language of Montenegro, at the necessary level for proper performance of duties.

A member of the board of directors can not be a person who:

1. is a member of the board of directors or chief executive of another insurance company or its subsidiaries;
2. is related to a legal entity in which the insurance company has qualified participation;
3. was in a management position in a company or other legal entity which is subject to bankruptcy proceedings or revoked license, or
4. does not meet the general requirements set forth by the Law governing the organization of companies.

Only persons approved by the Insurance Supervisory Authority may be appointed for the positions of the Executive Directors and members of the BoD of an insurance company. The Executive Director shall not be a member of the board of directors of that company.

The Executive Director is required to understand the official language of Montenegro, at the necessary level for proper performance of duties.

5. CAPITAL REQUIREMENTS AND RESERVES

Insurance companies may not have share capital less than 2 mil € if performing classes of non-life insurance (liability, credit and guarantee insurance excluded) or 3 mil € when performing life insurance or non-life insurance classes of liability insurance, credit or guarantee insurance.

Reinsurance companies may not have share capital less than 3 mil €.

The share capital will be adjusted annually to changes in the European Index of Consumer Prices as published by Eurostat.

Alignment shall be required to be effected, if there is a percentage change greater than 5%, so that, after the publication of the Index change, the amount of the capital increases by the percentage change in the index, rounded to a number divisible by 100,000.

An insurance company is required to establish technical reserves in the amount sufficient to cover liabilities that may arise in the course of the insurance business activity.

An insurance company is required to establish the following types of technical reserves;

1. reserves for unearned premiums;
2. provision for outstanding claims;
3. provision for bonuses and rebates;

4. other technical reserves.

An insurance company which carries life insurance or insurance of a long duration, in which savings are accumulated funds to cover the risk insurance in the coming years and to which the probability tables and calculations that apply to life insurance, shall, in addition to reserves referred to in 1-4, establish mathematical reserves also.

An insurance company which carries credit insurance shall, in addition to 1-4, also establish equalization reserves for such insurance.

An insurance company that performs insurance where the insured assumes the investment risk shall, in respect of that insurance, establish specific technical reserves.

Criteria for the calculation and the calculation of the technical provisions are determined by the Insurance Supervision Agency.

6. INSURANCE INTERMEDIATION

The Law defines the brokerage activity as all activities related to mediation between the future policyholder or insured and the insurer with the aim to conclude an insurance agreement, and other preparatory activities as well as assist in the realisation of legal rights from the insurance agreement, particularly regarding to insurance claims from the insurer. Insurance brokers should be licensed for this activity and may not perform any other activity, including insurance agency.

Insurance agency activity consist of initiating, proposal preparation and conclusion of insurance contracts in the name and for the account of an insurance company. An insurance agent may not be engaged in other commercial activities.

Insurance agency may be provided by banks licensed in Montenegro by the Montenegrin Central Bank, that acquired the agency license from the Montenegrin Insurance Supervision Agency.

7. TYPES OF COMPULSORY INSURANCES

There is only one compulsory insurance class in Montenegro that of third party motor liability insurance.

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