

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

1. REGULATION

The main laws regulating insurance in Romania are:

- Law no. 32/2000 on insurance undertakings and insurance supervision, as it was amended;
- Law no. 136/1995 on insurance and reinsurance in Romania;
- Law no. 503/2004 on financial recovery and bankruptcy of insurance;
- Law no. 260/2008 on compulsory house insurance against earthquakes, landslides and floods as it was amended by Law no. 248/2010;
- Order no. 21/2012 amending and supplementing the norms regarding the form and content of the contract of compulsory house insurance against earthquakes, landslides and floods implemented by Order of the Insurance Supervision Commission no. 15/2012;
- Order no. 17/2012 amending the Regulations on the use of amicable accident form, implemented by the Order of the Insurance Supervision Commission no. 21/2008.

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

According to art. 11 of Law no. 32/2000, the insurance activity may be exercised by:

- Romanian legal entities, established as joint stock companies and / or mutual societies;
- insurers and reinsurers authorized in the Member States, which carry on insurance or reinsurance in Romania under the freedom to provide services;
- branches belonging to a parent company governed by the laws of a third country authorized by the Insurance Supervisory Commission under a specific procedure;
- subsidiaries of a third-country insurers or reinsurers authorized by the Insurance Supervisory Commission under a specific procedure.

A company that has as main activity insurance-reinsurance may not be registered to Romanian Trade Register Office without having prior authorization issued by the Insurance Supervision Commission. After authorization, the company can be registered with the National Trade Register Office under the rules common to any other company.

Any insurer/reinsurer, which holds an authorization issued by the competent authority of the home Member State may carry out insurance/reinsurance in Romania, under the freedom to provide services, with prior notice to the Insurance Supervisory Commission by the competent authority.

3. INSURANCE SUPERVISION

The Insurance Supervisory Commission (C.S.A.) is the only authority empowered by law with powers of authorization, prudential supervision and control of the business of insurance/insurance intermediation in Romania. In addition, C.S.A. has the power to adopt rules, decisions and circulars.

The Insurance Supervision Commission:

- elaborates and/or approves draft laws concerning insurance or have an impact on this area, including accounting regulations specific to insurance; also it is mandatory to approve any individual administrative acts relating to insurance business;
- authorizes insurers, reinsurers and insurance and/or reinsurance brokers to carry out insurance, reinsurance or insurance intermediation as appropriate; approves any changes to documents or conditions under which authorization was granted;
- approves to grant preliminary agreement for registration as an insurer or reinsurer;
- authorizes compulsory insurance established by law;
- approves and, where applicable, withdraws approval of significant shareholders of insurers, reinsurers, insurance and / or reinsurance broker;
- monitors the financial situation of insurance – reinsurance undertakings/insurance and /or reinsurance brokers and other insurance intermediaries activities;
- applies the principles of prudential and preventive supervision;

- exercises permanent control over the activity of insurers, reinsurers and insurance and/or reinsurance brokers by analyzing and evaluating the information contained in the reports and the documents submitted by them;
- performs periodic or unannounced checks at the headquarters of insurers and insurance intermediaries, makes detailed inquiries regarding their conditions of work;
- applies the sanctions for breaking the law;
- receives and respond to all complaints and notifications about the activity of insurers, reinsurers and intermediaries in insurance and/or reinsurance;
- participates as a member in committees or bodies of insurance specific to the European Commission, to the international association of insurance supervisors and represents Romania in international conferences and meetings.

4. QUALIFICATIONS AND SUPERVISION OF THE MANAGEMENT

The members of the Board/Supervisory Board of the insurer must comply with the following rules:

- are not shareholders or significant persons of insurer and/or reinsurer broker or insurance agent of a Romanian legal person;
- individuals have not been convicted of fraudulent management, breach of trust, forgery, use of forgery, fraud to the detriment of private and public wealth, embezzlement, perjury, giving or taking bribes, receiving undue advantages, money laundering, terrorism, tax evasion or other acts which would not ensure the sound and prudent management of the insurer;
- have not been declared bankrupt or have not been part of a Board of a company that after its termination under any form has not complied with its obligations to third parties;
- have good reputation, honesty, probity and professional experience appropriate to the nature, extent and complexity of insurer and assigned duties;
- have higher education;
- at least one member of the Board/Supervisory Board must speak fluent Romanian;
- know the insurance legislation.

The members of the Executive Board or of the Directorate must:

- comply with the above mentioned provisions;
- have a minimum 5 years experience in insurance field or 7 years in banking, of which at least 3 years or 5 years in a managerial position in these areas;
- not have, at the same time, the same status in another Romanian or foreign legal entity, and have exclusively this position only at the insurer.

The Insurance Supervisory Commission is the only one who controls whether the above mentioned requirements are fulfilled and what actions should be done.

5. CAPITAL REQUIREMENTS AND RESERVES

The insurance company pursuing a general insurance activity is required to establish and maintain several technical reserves, including: gross premium reserve, loss reserve, reserve unreported loss, catastrophe reserve, the reserve for unexpired risks, the equalization reserve. The insurance company pursuing a life insurance activity is required to establish and maintain technical reserves, including mathematical reserves for life insurance fund.

The insurance/reinsurance broker must have a share capital subscribed and paid in cash of at least 25.000 RON (amount which could be modified by the Romanian Insurance Supervisory Commission) while the insurance companies should have at least the following amounts for their share capital:

- a) 5,000,000 RON for general insurance business, except compulsory insurances;
- b) 8,000,000 RON for general insurance business;
- c) 8,000,000 RON for life insurance business.

6. INSURANCE INTERMEDIATION

Insurance intermediaries can be: natural or legal persons, insurance broker, broker assistant, insurance agent or insurance subagent. All of the intermediaries must be approved and registered by the Romanian Insurance Supervisory Commission, need a license and must meet some professional qualifications.

Illustrated below are a few requirements:

- The individual insurance agents should enjoy a good reputation, have no criminal record for offenses against property or financials, have specialized training and / or competence, knowledge and skill appropriate for the activity in accordance with the requirements of regulations issued by the Insurance Supervision Commission

and have in force a contract for professional liability insurance or an equivalent security provided by an insurer on whose behalf the insurance agent works.

- The legal insurance agents should also enjoy a good reputation and its name has to contain the phrase "insurance agent", have not been previously declared bankrupt or the subject to judicial reorganization and / or bankruptcy when requesting the authorization and its associates, significant shareholders and significant persons, must not have any criminal record for offenses against property or for financial offenses under tax law;
- The insurance/reinsurance broker is forced to include in its name the tag "insurance broker", "reinsurance broker" or "insurance/reinsurance broker", must have a registered capital paid in cash, the value of which can not be less than 25.000 RON, value which is updated regularly by the Romanian Insurance Supervisory Commission. The broker must have in force a liability insurance contract and as unique activity only insurance and / or reinsurance broker activity. His employees should have the adequate qualification and training in accordance with professional requirements for insurance intermediaries and /or reinsurance.

The insurance brokers must have in force an insurance contract for professional indemnity valid for the entire territory of Romania, with a minimum coverage of 1,121,000 euros per event and an aggregate amount of 1,700,000 euros per year without deductibles fees.

7. MARKETING AND SALES PRACTICES (CONSUMER PROTECTION)

For the marketing and sales practices the general consumer regulation applies but there are several bits of information that insurers and insurance intermediaries must provide to their customers.

Customers have the right to be informed correctly, prior to concluding the contract, on all conditions of the insurance contract.

The information of the potential client must be provided on paper or on another durable medium before the conclusion of the insurance contract through a separate document or multiple documents in Romanian language or in another language at the special request of the customer.

The insurer must provide at least the following information, before concluding a general insurance contract:

- Information about the insurer: the name and legal organisation form of its activity; the number from National Trade Register Office and the address of its head office and the address of the branch or agency where the insurance contract is concluded and its telephone number;
- Information about the insurance contract: defining each insured event and the insurance indemnity if the insured event occurs; the insurance exclusions; the start and the termination of the contract of insurance; methods of execution, suspension or termination of the contract; information on any rights the parties may have to terminate the contract early or unilaterally, including any penalties imposed by the contract in such cases; how to pay premiums and payment of insurance premiums; the payment of insurance benefits, the redemption amounts and amounts insured; information about the grace period; procedures for the settlement of any disputes arising from the execution of the contract, or information about how to resolve amicably the claims made by policyholders or beneficiaries of insurance contracts; the law applicable to the contract of insurance.

Before signing a life insurance contract, insurers are required to perform an analysis of the client's financial needs, based on the document called "Customer needs analysis form," which will be prepared in the first meeting with the client before its proposed financial solution. This document should be evaluated at least the following minimum information: personal information of clients and family situation data relevant to the identification of needs; information about financial status of customers; long-term financial goals of clients and their priority.

Based on the analysis result, insurers make a written recommendation to clients on the type of insurance contract and the appropriate investment fund's risk profile resulting.

8. TYPES OF COMPULSORY INSURANCES

In Romania there are only two compulsory insurances: the compulsory motor liability insurance and the compulsory home insurance.

9. INSURANCE MARKET

According to the website of the Insurance Supervision commission there are 39 registered insurer/reinsurers in Romania, 614 insurance Brokers and 464 branch offices. The total number of insurance agents is not available - search can only take place by name of a specific agent.

Share of the market corresponding to life insurance for the year 2011 was 22.22% the equivalent of 1.738.366.854 RON. For the first semester of 2012 the share market corresponding to life insurance was 20.73% meaning a slight decrease compared to the first semester of 2011 when the percent was 21.39%.

Report prepared by: *Valentin Radoi - Attorney at Law, Associate of IK Rokas & Partners – Constantinescu, Radu, Ionescu*