

REGULATORY INTELLIGENCE

COUNTRY UPDATE-Serbia: Insurance

Published 25-Aug-2023 by

Aleksandar Mladenovic, attorney at law in cooperation with IK Rokas Law Firm Athens

**Member of IAIS?** Yes.**Supervised by EIOPA?** No.**Does Solvency II apply/Has Serbia implemented Solvency II?**

As a candidate country for joining the EU, Serbia is obliged to ensure that its laws are compliant with the *acquis communautaire*. The Insurance law, which was adopted on December 26, 2014, is considered to be compliant with the Solvency II rules according to the legislator as provided in the reasoning for the adoption of the new law and assessment of its effects. In May 2021 the regulator published a Strategy for implementation of Solvency II, whereby the process of implementation shall be effected in three phases: (i) compliance analysis, which was completed in 2017; (ii) assessment of effects of implementation, which is pending and is conducted through quantitative studies of the impact of requirements of the first pillar of Solvency II on capital adequacy and technical reserves of insurance companies; and (iii) final phase, which will include the adjustment of the regulatory framework through the amendments of the Law on Insurance in the part related to the performance of business insurance and reinsurance and supervision of insurance/reinsurance companies and groups of companies for insurance/reinsurance. In addition, it is planned to prepare a draft (amendment) of the Law on bankruptcy and liquidation of banks and insurance companies, which will transpose the framework of Solvency II in the part related to reorganisation and liquidation/bankruptcy of companies for insurance/reinsurance in the Republic of Serbia.

Introduction/overview

At the end of 2022, there were 20 (re)insurance companies operating in the Republic of Serbia. Sixteen companies engaged in insurance business, and four in reinsurance business. Of the companies engaged in insurance business, four companies deal exclusively with life insurance, and six companies each deal exclusively with non-life insurance, i.e., both life and non-life insurance. According to the ownership structure of capital, out of 20 companies, 15 are in foreign majority ownership.

In the sales network, in addition to (re)insurance companies, there are also: 17 banks, eight financial leasing providers and a public postal operator, which received consent to perform insurance representation activities, 109 legal entities and insurance representation companies, 78 insurance agents (natural persons- entrepreneurs) and 4,338 active authorised persons for performing representation activities, i.e., insurance mediation activities.

Regulators

The main regulator in the insurance sector is the National Bank of Serbia (NBS) which, through its administration for the supervision of financial institutions, has supervised the insurance sector since 2004, when this authorisation was transferred from the Ministry of Finance.

Through its administration for the supervision of financial institutions, NBS also supervises banks and other financial institutions in Serbia and ensures integrated supervision for the whole financial sector in Serbia.

The law provides that NBS supervises insurance activities in Serbia with the main aim to protect interests of insureds and other beneficiaries of insurance and to ensure the stability of financial system. In this regard NBS issues and withdraws re/insurance operation licences, insurance intermediation as well as for businesses directly connected to insurance licences, provides approval



to regulations/decisions and activities of the entities it supervises in accordance with law, collects data, processes complaints from insureds, beneficiaries of insurance and third parties regarding operations of insurers and intermediaries, processes statistical data, keeps registers of re/insurers and intermediaries.

It regulates the conditions for acquiring the actuaries' authorisation, issues the authorisations to actuaries, supervises their work and may withdraw such authorisations under conditions provided by law. It approves the appointed auditors of insurance companies.

Permission to operate

The NBS is in charge of issuance and withdrawal of re/insurance operation licences, insurance intermediation as well as licences for businesses directly connected to insurance.

Domestic insurers

Pursuant to the applicable law, insurance services are to be provided only by local insurance companies which have been licensed by the NBS as the industry regulator, whereas reinsurance coverage, subject to few exceptions, is available only with locally registered reinsurers.

International insurers

The applicable law provides for a step-by-step liberalisation in the provision of insurance services as well as the freedom for foreign insurance companies to establish local branch offices. In addition, local insurance companies shall be authorised to freely obtain reinsurance cover above their self-retention directly with foreign insurance companies or their local branches in the future, when complete liberalisation takes effect upon Serbia becoming member of the EU and WTO.

Capital reserve requirements

Minimum capital requirement for insurance companies ranges from 2.2 to 3.2 million euros depending on the class of insurance, while for reinsurance it is 3.2 million euros. The law only provides for general provisions on calculation of technical reserves, guarantee reserve of an insurance company, insurance premium and solvency margin and vests the NBS with the authority to regulate this issue in detail through its secondary legislation

Global legislation applicable to country

There is no global piece of insurance legislation that has become applicable to Serbia as yet; still, in the near future the growing role of new policymakers in insurance regulation and the pressure to align insurance rules with the growing presence of internationally active insurance companies will require adoption of such globally applicable regulatory standards.

Domestic laws (including proposals before parliament)

The main piece of legislation regulating insurance and reinsurance companies, insurance intermediaries, companies directly connected to insurance and supervision in insurance is the recently enacted Law on Insurance (Official Journal of RS no 139/2014, 44/2021). NBS has, as authorised by the Law on Insurance, since 2004 issued numerous regulations, decisions and guidelines for the implementation of the law and strengthening of the insurance supervision in Serbia which have been revised following the adoption of the new Insurance law. In addition, the NBS has issued guidelines on transparency, corporate management, market risk, anti-money laundering (AML) and fraud.

Significant changes in the regulatory framework in the field of insurance supervision are still expected in full harmonisation of regulations with the Insurance Distribution Directive and the implementation of Solvency II.

Product specific legislation

The main piece of legislation governing life and non-life insurance contracts is the Law on Contracts and Torts ("Official Journal of SFRJ" no 29/78, 39/85, 45/89 — decision of the CCY and 57/89, "Official Journal of SFRJ" no 31/93 and "Official Journal of SCG" no 1/2003 – Constitutional Charter).

In addition, the draft of the Civil Code is expected to include provisions on certain specific insurance contracts which have so far have not been regulated. In relation to insurance products addressed to the consumers, the Law on Protection of Financial Services Beneficiaries in Long-Distance Contracting (Official Journal of RS no 44/2018) and the specific provisions contained therein are aimed at safeguarding this particular class as the beneficiaries of insurance services and products have to be complied with.

Investment management and markets

The Insurance law provides a list of permitted insurance investments and authorises NBS to supplement such list but also to impose limitations to investments under the secondary legislation. Insurance companies are obliged to periodically notify NBS on their insurance investments. Reserves of insurance companies may be placed in Serbia while 25% of the value of the capital may be placed outside Serbia.

The insurance companies are also obliged to ensure the existence and functioning of an effective risk management against the risks to which they are exposed or could be exposed in their operations, which should consist of the strategies, processes and procedures, including procedures for reporting necessary for continuing identification, measurement and monitoring of risk management and reporting of individual and overall risks, including their interdependence.



THOMSON REUTERS™

© 2023 Thomson Reuters. All rights reserved.

In particular, the risk management system of an insurance company includes:

- underwriting and provisioning;
- management of assets and liabilities;
- investment;
- liquidity and concentration risk management;
- operational risk management;
- reinsurance and other methods or risk reduction.

The NBS is authorised to prescribe the types of risks in the conduct of insurance business, the detailed terms and conditions of their identification, measurement and monitoring and well as risk management.

Pursuant to the Decision on Amendments to the Decision on Investment of Insurance Funds (Official Gazette of RS, No. 149/2020 and 137/2022), the deadline by which it is possible to obtain receivables for overdue premiums of unexpired non-life insurance, co-insurance and reinsurance with the funds of technical reserves is extended until December 31, 2024. In addition to changing the date of application of IFRS 17 - Insurance Contracts, the decision was adopted to ensure the continuity of insurance services in the situation of expected negative economic effects caused by the COVID-19 pandemic, especially taking into account the practice of insurance companies to approve deferred premium payments during emergencies, taking care not to jeopardise their financial situation.

The local securities regulation has in the past several years undergone significant regulatory amendments. The main statutes governing securities regulation are the Capital Markets Law (Official Gazette of RS, No. 129/2021), the Law on Takeover of Joint Stock Companies (Official Gazette of RS, No. 46/2006, 107/2009, 99/2011 and 108/2016), the Law on Open Investment Funds with Public Offers (Official Gazette of RS, No 73/2019) and the Law on Digital Assets (Official Gazette of RS, No 153/2020).

Enforcement and investigation

Supervision of persons that influence the operations of re/insurance companies includes the approval by NBS of certain shareholders, members of the Executive board and Supervisory board as to their suitability and relations to connected entities, any change of these persons and their specific reporting obligations.

A shareholder seeking to acquire qualified shareholding in an insurance company should first obtain approval from NBS. Approval is required every time his participation exceeds 20%, 30% and 50%. NBS should be notified if his qualified participation drops below the level for which it has received the NBS approval. NBS shall reject the approval if such acquisition may, due to the business activities of that person, or a person connected to him, jeopardise the business of the insurance company, if proper supervision would be affected or prevented, and in other cases.

For issuing of a re/insurance licence, the applicant provides NBS with detailed information and evidence on the shareholders with qualified participation and proposed members of the management, i.e., members of their Executive and Supervisory board. The candidate for the member of the Executive board submits his programme of operations of the company. Appointment of a member of the management without the approval of NBS is null and void.

Documents to be submitted with the application include evidence that the candidate was not a member of the management of an insurance company which became bankrupt, that it was not convicted for criminal act which makes him inappropriate candidate for such position. NBS shall not issue approval for the management member candidate if it concludes that his profession or business activities may jeopardise the operations of the company in accordance with the rules on risk management.

The law pays additional attention to the relations between the members of the management/shareholders and connected companies. Thus a person who is connected to a company in which the insurance company holds more than 5% of the capital/votes or is member of the management/internal supervision of other insurance company shall not be approved by NBS for the above positions.

Members of the management of an insurance company, apart from general duties prescribed by company law, have additional obligation in relation to the connected persons and that is to take measures to prevent illegal or inappropriate actions and influences that are harmful or not in the best interest of the insurance company and its shareholders, with the aim to protect the insureds.

The NBS is authorised to prescribe other conditions in relation to the management fit and proper requirement. In addition, numerous reporting and notification obligations of the members of the Executive and the Supervisory boards of insurance companies are detailed regulated in the law and regulations issued by NBS.

The NBS performs the supervision of insurance companies operations either: 1) directly through the on site inspection of insurance company records and documentation by the authorised official of the NBS; or 2) indirectly through the analysis, monitoring and control of reports and other documents the company submitted to the NBS, or acquired by the NBS.

In case certain irregularities in the operations of an insurance company are identified in the course of supervision, the NBS may issue a written warning to the insurance company and determine the deadline for their rectification. Also in the course of performance of its supervisory functions the NBS may issue the following measures against the insurance company:

- publish information about the non-compliance or untimely execution of obligations of the company or on the company's contravention of the regulations, at its expense;
- order measures for rectification of irregularities in the operations of the company;



THOMSON REUTERS™

© 2023 Thomson Reuters. All rights reserved.

- order measures for non-compliance with the rules on risk management;
- order the dismissal and suspension of members of the management;
- order interim measures;
- introduce receivership;
- order the transfer of the insurance portfolio to another insurance company;
- revoke some or all types of insurance for which the licence was granted.

NBS is also authorised and very active in the enforcement of consumer protection in insurance, and it that regard it has issued the decision on methods on protection of the rights and interests of clients of insurance companies and companies for management of voluntary pension funds, which is subject to revision following the adoption of the new law. Also the NBS operates the Centre for protection and education of users of financial services which assists the citizens in realisation of their rights and helps them understand and use financial services.

Also operating within this Centre is the Information Centre of NBS, where the citizens may receive information on the benefits and risks that should be taken into consideration while using financial services. NBS has also organised regional financial services education centres.

Citizens that believe that a insurance company, agent or other reinsurance undertaking fails to apply or breaches the provisions of concluded contracts, good business practice or published general terms of business are entitled to fill a complaint to the NBS which in this case act as the institutional intermediary in resolving the consumer dispute and also provides information to the consumers on the applicable procedures for redress and protection of their rights and interests.

Creditor hierarchy

According to the Law on bankruptcy and liquidation of banks and insurance companies (Official Journal of RS no. 14/2015 and 44/2018 - other law) the claims of the creditors against the insurance company are settled according to the following order of priority: 1) claims of creditors on the basis of the contracts of life insurance or reinsurance, amounting to the level of obligations declared in the funds of mathematical reserves, in conformity with the law governing insurance; 2) claims of creditors on the basis of contracts of accident insurance, 3) claims of creditors on the basis of contracts on insurance for all other types of insurance, 4) claims of creditors on the basis of contracts on re-insurance for all other types of insurance, 5) claims on the basis of public revenues due in the last three months prior to the institution of bankruptcy proceedings, except for contributions for pension and disability insurance, 6) claims of other creditors, 7) claims of shareholders of insurance companies i.e. members (insurance clients) of mutual insurance companies.

Data protection

The applicable Insurance law regulates the collection, management and use of personal data by providing that the collection, processing, storage, use and sending of personal data necessary for the conclusion of insurance contracts and for the payment of claims or payment of the contracted amounts arising out of insurance contract has to be performed in accordance with the law governing the protection of personal data and any other law or regulation. In that regard the insurance companies as the collectors, handlers and managers of personal data are obliged to comply with the Law on Personal Data protection (Official Journal of RS no. 87/2018).

The insurance company is authorised to establish and maintain appropriate registers information about the insured or the beneficiaries of insurance and adverse events, as well as data registers on the assessment and claims settlement or payment of the agreed amount.

Data on policyholders or beneficiaries of insurance and other data relevant to the exercise of the right to compensation or payment of the contracted amounts are kept for 10 years after the expiry of the insurance contract, in the event of adverse events, i.e., the insured event — 10 years of determining damages, or contracted amount. After the expiration of these periods the respective date are required to be deleted.

In accordance with the Law on Gender neutrality (Official Journal of RS no. 52/2021), the NBS has rendered a Decision on application of gender factor (Official Journal of RS no. 58/2022) ensuring that the insurance company cannot use the gender factor when determining insurance premiums and benefits in the manner that leads to the differences in individual premiums and benefits, so as to improve gender equality in access to services in the insurance industry.

Financial promotion

The promotion of financial products is regulated under the Law on Protection of Financial Services Beneficiaries in Long-Distance Contracting (Official Journal of RS no. 44/2018)) and the Law on protection of the users of financial products (Official Journal of RS no 36/2011, 139/2014), which impose several safeguards pertaining to the advertising and financial promotion including false and misleading advertisement and unfair consumer practices and establish the authority of the NBS for supervision of the providers of financial services with regard to their compliance with these provisions across all the financial sectors under its supervision including the insurance.

Corporate governance

The main bodies of the insurance company are: the 1) Assembly 2) Executive board and 3) Supervisory board, with their relation and competencies being defined under the Insurance law as well as general law on companies. The insurance company management



THOMSON REUTERS™

© 2023 Thomson Reuters. All rights reserved.

system is required to be adjusted according to the size and organisational structure of the company, the range of activities and types of insurance that the company carries. In addition, the NBS is authorised to prescribe the manner of system management in the insurance company and the conditions for assigning certain operations of the company to third parties, as well as the method of supervision of delegated tasks to the service provider.

The insurance company supervisory board is authorised to determine the remuneration of the members of the executive board as well as the policy on salaries and other benefits in the company. In addition, the assembly of the insurance company is required to annually consider the information on all salaries, allowances and other entitlements of members of the supervisory and executive board and all agreements between the insurance company and these persons including the connected persons with them, as well as the proposal of the supervisory board on salaries, allowances and other material benefit of such persons for the following year.

Aleksandar Mladenovic, attorney at law in cooperation with [IK Rokas Law Firm Athens](#).

[Complaints Procedure](#)

Produced by Thomson Reuters Accelus Regulatory Intelligence

25-Aug-2023



THOMSON REUTERS™

© 2023 Thomson Reuters. All rights reserved.