

THE NEW INSURANCE LAW IN ALBANIA, COMPLIANCE WITH EU STANDARDS

Entering into market economy, Albania's economy has undergone tremendous changes in general and financial sector in particular. These changes have as well affected the insurance sector that is the most vital part of the financial sector.

Following a liberalization policy in the insurance sector, private insurance undertakings were established. These undertakings facilitate increasingly the economy in general and policyholders in particular. Conscious about the importance of this sector and intending to pave the road for a qualitative development of the insurance sector, the Albanian Parliament approved on March 7th, 1996 the law "On Insurance and reinsurance activities, to regulate licensing and supervision of the insurance undertakings by the state, in protection of insured. Based on this law, in 1998 Insurance Supervisory Commission was established, as the sole authority to license and supervise the insurance and reinsurance activities in Albania.

However the growth and development of the insurance sector pointed out the loopholes of this law. The law had several inconsistencies with the directives of European Union, international principles and standards of the International Association of Insurance Supervision (IAIS).

Responding to the above and the comments and suggestions forwarded by the World Bank experts, the Albanian government undertook real steps to draft a new law on insurance activities. The draft law "On licensing and supervision of insurance, reinsurance and intermediary undertakings" relies heavily on the legislation and practice of European countries with a special attention given to the particular conditions of our country.

The goals of this law are to further regulate the licensing procedure for the insurance and intermediary undertakings, to increase the role of ISC 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 protection of the interests of insured.

This draft law brings forth several novelties. Firstly, the law has been enriched with clear definitions of insurance and reinsurance activities consistent with EU directives and IAIS standards that are crucial to its successful implementation. The insurance categories are no longer addressed as an annex of the law but more as an integral part of it.

In view of fostering the measures against speculative activities, this law prohibits the possession of more than 30 percent of the share capital by a single shareholder. Clearing the market for fair competition and quality services has been a problem in general and particularly in the insurance sector. For this reason the draft law specifies and clarifies the rules for issuing licenses to undertake insurance activities, expansion of insurance and reinsurance activities by domestic insurance undertakings as well as branches of foreign insurance undertakings.

Under the provisions of the draft law the undertakings would be managed by a board of directors to be composed of not less than three members. In this way the management efficiency and the responsibility of the undertaking are enhanced.

The law as well provides for the rights and duties of members of the board, key personnel, shareholders, accounting expert, internal auditor, what would supposedly increase the confidence of the insurance undertaking in the market. Another important new provision is the authority given to ISC to license actuaries and claim adjusters. Under the draft law even the auditing of the insurance undertaking has to be carried out only by auditing companies.

As the market grows the need for the licensing of intermediary entities becomes quite obvious. The draft law has provided for the licensing of intermediary activities, terms and conditions.

A new concept to us, the risk management has been addressed extensively in the draft law. Specific conditions and procedures are provided for in the draft law in regard to the methods and rules to be exhausted by the insurance undertakings in assessing and analyzing the exposure of the undertaking to different risks. Clear, determined elements of required insolvency margin are provided for in full compliance with the EU directives.

To protect the interests of the insured it's very important that the insurance undertaking maintains a stable financial status. In the view of this goal the draft law provides well-defined rules and procedures for the supervision of the insurance undertaking activity intending to guarantee that the undertaking attains financial stability during its activities.

In a separate chapter special attention is given to interim administration and new rules for bankruptcy and liquidation procedures. The protection of the consumer, as important as it is in a growing market with so many uncertainties and violations, has not been left only to the law of contracts. References to this are made even in the draft law on insurance activities.

The draft law includes a whole chapter on sanctions. They have been classified and referred to in respective manner to insurance undertakings, members of board of directors, intermediaries, licensed actuaries etc.

Following is a new draft law on "The structure and operation of ISC", which would increase the institutional and operational independence of ISC, as the sole authority to license and supervise the insurance, reinsurance and intermediary entities, and enhance the institutional cooperation between domestic and foreign financial institutions.

The enactment of this law would certainly facilitate the operation of the insurance market.