

# Serbia: New Insurance Act

JANUARY 2015

The Serbian insurance industry shall be welcoming the new Insurance Act (*Zakon o osiguranju*, "Official Gazette of RoS" 139/2014), which substantially overhauls regulation in this area. The majority of new provisions shall come into effect on 27 June 2015 (*vacatio legis*) while some of the provisions will come into effect only once Serbia joins the World Trade Organization. This newsletter describes the most important changes.

## Composite undertakings

Under the new law, new entrants to the insurance market will be no longer allowed to perform both life and non-life insurance business within the same undertaking. The incumbents are allowed to continue with the composite operations subject to the requirement to, *inter alia*, segregate life and non-life insurance lines, calculate and manage assets and liabilities separately for each activity and separately calculate capital adequacy. There is a one-year grace period left for compliance with the given requirement. The composite undertakings which do not comply within the said deadline will see their license revoked.

## Insurance intermediaries

Insurance brokers are still required to operate within the licenced insurance brokerage companies. However, they are no longer required to be employed a brokerage company, but may be engaged pursuant to one of the out-of-employment modalities regulated by the labour legislation. The same applies to insurance agents. Insurance agents are no longer "tied", but can conduct business on behalf of multiple insurance companies if the companies so approve.

The new Insurance Act now allows Serbian licenced banks, financial leasing companies and the public postal operator to engage in the insurance agency activity with the consent of the National Bank of Serbia ("NBS").

## Capital adequacy and the solvency margin

The new Insurance Act incorporates minimum capital requirements from the EU Directive 2009/138/EC ("**Solvency II**") by imposing absolute capital floors of:

- EUR 3,200,000 in RSD counter value for life insurance undertakings;

- EUR 2,200,000 or EUR 3,200,000 in RSD counter value for non-life insurance undertakings, depending on whether the company provides all or just some of the non-life insurance services;
- EUR 3,200,000 in RSD counter value for reinsurance undertakings.

An insurance undertaking is deemed adequately capitalized if the guarantee funds exceed the applicable minimum capital requirements and the solvency margin is kept above the minimum required level. The rules on the calculation of the solvency margin (previously regulated by a by-law) are slightly modified and are now part of the Insurance Act. The capital and solvency requirements are not risk-based and are therefore far from the Solvency II standard.

### **Insurance supervision**

Under the new regulation, the NBS will be authorised to appoint special administrators to take over the management in specified cases where an insurance undertaking is weakening. Moreover, the NBS will extend supervision to the entities that could have a bearing on the financial and operating position of a supervised insurance undertaking ("supplementary supervision"). Such supplementary supervision shall encompass undertakings with which an insurer has a parent-subsidary relationship or in which it has a qualified participation, as well as undertakings that are otherwise deemed part of an *insurance group*, pursuant to the criteria contained in the Insurance Act.

### **Data protection**

The Insurance Act imposes a duty of confidentiality on the insurance companies, their shareholders and board members and persons employed, working or performing activities for those companies. The duty of confidentiality means the obligation to keep confidential any information, facts and other circumstances pertaining to the buyers or other beneficiaries of insurance, which information has been received in the course of the relevant business relationship. It survives termination of employment or other engagement with the insurance company.

### **Cross-border insurance activity**

Upon expiry of a four-year period from Serbia joining the WTO, foreign insurance undertakings and foreign insurance brokerage and agency firms shall be allowed to carry out business in Serbia through a branch, subject to a permit issued by the NBS, while Serbian branches of foreign reinsurance undertakings will be able to apply for a business licence from the moment Serbia joins the WTO. Serbian licenced insurers and insurance intermediaries shall be permitted to provide services abroad, directly or via branch offices, subject to the applicable regulations of the relevant foreign country and the requirements set out in the Insurance Act and the forthcoming by-laws.

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