

THE INFLUENCE OF INSURANCE COMPANIES' SUPERVISION OVER THEIR FINANCIAL STABILITY

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Abstract:

Insurance companies' supervision represents the most important activity of the insurance market authority and the need of this supervision activity is closely related to achieving and maintaining a balance between financial strength of companies and market influences, assuming the development of legislation and regulations that ensure continuity and solvency of Insurance companies constantly checking the compliance with legal provisions.

For the protection to be reliable and credible, insurance companies operate in a well developed legal framework, benefiting from a close monitoring of the Insurance Supervisory Commission.

Key words: Insurance companies, Supervision, financial stability,

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The supervision activity appears as a necessity for the protection of policyholders and the national insurance and reinsurance market, being necessary also due to the rapid development of this sector, increasing competition and the internationalization of insurance companies.

By Law no. 216 of insurance from 1930 was established the Private Insurance Supervisory Office through which insurances or reinsurances were made. This Office worked with the Ministry of Industry and Trade. "The most important regulation of the insurance activity in Romania was the emergence of the Law from 1930 that regulated the establishment, organization and functioning of private insurance companies, insurance contracts and supervision of the insurance activity. This supervisory body was called Control Office".¹⁹³

After the Revolution of December 1989, the insurance sector has seen many regulations specific to the market economy, the surveillance activity being regulated by the Government Decision no. 574/ 1991 concerning the attribution of the *Supervisory Office of Insurance and Reinsurance Business* (S.O.I.R.B). According to this Law, this is a central body of the state which operates from 1 January 1991 within the Ministry of Finance and which had among his responsibilities the application of surveillance provisions regarding the insurance business to prevent the insolvency of companies and to protect the rights of policyholders. "Supervisory Office of Insurance and Reinsurance Business carried out its activity until 2001, when under Law 32/ 2000 regarding insurance business and insurance supervision, was established the *Insurance Supervisory Commission (ISC)*, which took over all its responsibilities and duties together with the staff of that structure."¹⁹⁴ ISC is "the **specialized autonomous administrative authority**, with legal personality, whose main purpose is to protect the

¹⁹³ Caraiani Gheorghe, Tudor Mihaela - *Asigurări. Probleme juridice și tehnice*. Editura Lumina Lex, București, 2001, p. 10

¹⁹⁴ Șeulean Victoria, Barna Flavia, Chiș Codruța - *Asigurări comerciale*, Editura Mirton, Timișoara, 2007, p. 107

rights of policyholders and to promote stability of the insurance business in Romania."¹⁹⁵

The insurance regulatory activity held by ISC is coordinated by the General Directorate for Regulations, in collaboration with the General Directorate for European Integration and International Relations.

Once Romania joined the European Union, the supervision activity became increasingly complex, continuing the process of aligning to the prudential standards, to maintain a transparent and developed market level.

The *purposes of the supervision activity*¹⁹⁶ are:

- ☐ protection of policyholders, by monitoring solvency, quality and competency management, and investment of insurance companies;
- ☐ providing conditions for financial stability, safety and soundness of insurance companies and pension funds;
- ☐ supervision and enforcement of conduct for insurance companies that would be in the interest of clients;
- ☐ establishing criteria relating to financial capacity and liquidity of insurance and reinsurance companies;
- ☐ monitoring and coordinating the development of insurance and reinsurance system;
- ☐ assessing and limiting risk for customers;
- ☐ increasing public confidence in insurance;
- ☐ protecting the insurance system not to reach failure;
- ☐ protecting and supervising investments, and implicitly the client assets.

The *need of supervision* is closely linked to achieving and maintaining equilibrium between companies' financial stability and market influences and it involves the development of legislation and regulations that ensure the continuity and solvency of insurance companies.

According to Law 32/2000 ISC is an autonomous administrative authority, specialized, independent, funded by insurance companies, with the role of regulation, control and supervision of the insurance market, based in Bucharest municipality, but with the possibility of opening branches in any other town in Romania.

ISC is currently led by a council of seven members, including a president and two vice-presidents¹⁹⁷. The ISC board members are appointed by the Parliament, in the joint session of both Chambers, in joint committee proposal, namely the *Committee for budget, finance and banking activity and capital market, from the Senate*, and the *Committee for budget, finance and banks from the Chamber of Deputies*; the president and vice presidents are nominated. The list of proposals is subject to approval by Parliament.

The ISC president is elected for a mandate of 5 years and is the legal representative of ISC, vice presidents for 4 year mandates, and the members of the Council are appointed for mandates with different durations, so that each year one of their mandates expires. The first members of the ISC Council were appointed in July 2001.

All ISC activities in insurance are legally based on Law 32/ 2000 regarding the insurance activity and insurance supervision, as amended and supplemented, as well as all rules and orders made in applying this Law by the Commission.

The *main objectives of the ISC* are:

¹⁹⁵ Anuarul Asigurărilor, Editura Media XPRIMM, București, 2009, p.15

¹⁹⁶ Ciurel Violeta –*Asigurări și reasigurări: abordări teoretice și practici internaționale*, Editura All Beck, București, 2000, p. 570

¹⁹⁷ In 2001, ISC was led by a council of five people, including a president, a vice president and 3 members

- ☞ harmonization of the national legislation with the Community acquis and its implementation;
- ☞ strengthening the institutional capacity of prudential supervision and control;
- ☞ neutral and preventive supervision of insurers and brokers;
- ☞ consumer protection and increasing market transparency.

By Law, ISC Council deliberates valid when at least 4 of its members are present, including the president, or in its absence, one of the vice presidents.

The decisions are taken by a majority vote of the members present, and in case of a tie, the vote of the president or, in his absence, of the vice president who leads the debates is decisive. ISC consults the board composed of representatives of the professional association of insurance market operators.

The Supervisory Authority's responsibilities are different and try to cover issues related to the organization and performance of insurance/ reinsurance activity, supervision and control of the national insurance market.

According to Law 32/2000¹⁹⁸ I identified the main responsibilities of the Insurance Supervisory Commission, namely:

- ☞ develops and/ or approves draft normative acts concerning the insurance field or that have implications over this field;
- ☞ grants authorizations to insurers, reinsurers and insurance and/ or reinsurance brokers to conduct insurance, reinsurance or intermediary activities;
- ☞ authorizes the practice of mandatory insurance established by law and collect as own revenues a contribution as a percentage of the value of gross premium collected;
- ☞ approves the division or merger of an insurer/ reinsurer/ insurance and/ or reinsurance broker authorized in Romania as well as portfolio transfer;
- ☞ approves at request: limiting, suspending or, where appropriate, activity closure, after checking their financial situation;
- ☞ monitors the financial situation of insurers, exercises a permanent control by analyzing and evaluating the information contained in reports, inform report and documents submitted to it and carries out regular and unforeseen controls;
- ☞ request the submission of information and documents, including statistical data related to the insurance business, management and executive leadership of this activity;
- ☞ applies the measures provided by law on financial recovery, reorganization or, if necessary, bankruptcy of insurers and reinsurers, as well as their branches and subsidiaries;
- ☞ acts as manager of the Guarantee Fund;
- ☞ receives and responds to all notifications and complaints concerning the activity of insurers, reinsurers and intermediaries in insurance and/ or reinsurance;
- ☞ informs the competent authorities of the Member States in whose territories are branches of insurers about any sanction measures taken against them, including the withdrawal of the authorization;
- ☞ approves the curriculum of courses and the themes of graduation exams for companies which organize training courses, and courses for professional, post-secondary or postgraduate development.

The performance of these attributes must be seen in terms of efficiency in two ways:

- ☞ from the perspective of the supervisory authority, the whole activity must be

¹⁹⁸ Legea 32/2000, privind activitatea de asigurare și supravegherea asigurărilor, art 5 (Law 32/ 2000 regarding the insurance activity and insurance supervision, art. 5)

done at reasonable cost;

- ⊞ from the market perspective, exercising control should not lead to the inhibition of innovation in the market, but it should lead to identifying, discouraging and punishing fraud and attempted fraud in defending the interests of customers.

ISC is required to present to the Romanian Parliament, within 6 months from the end of each financial year, a report on the insurance market in Romania and an informing report on the activities developed and publish an annual informative report on insurance market and its institutions and bodies.

Conclusions

Insurances are subject to supervision and to strict regulations in most countries, especially for the protection of policyholders and for increasing the role of these services in the economic development process, and not so much in extending state intervention. Their importance was recognized for promoting a healthy competition and a responsible behavior of insurers.

For a rational perspective of the market the strict regulation of the activity of insurance companies, their control and supervision, the imposition of strict conditions for the establishment and operation are fundamental, with favorable effects on the whole economy.

In our country the supervision activity is a necessity for the protection of policyholders and of the national insurance and reinsurance market, being necessary also due to the rapid development of this sector, the increasing competition and internationalization of insurance companies. Contrary to this situation is the increasing difficulty of the surveillance process due to the decrease of the sector's transparency through the obvious tendencies manifested in recent years by acquisitions and mergers of many insurance or reinsurance companies, banks or investment companies. As a result, the major insurance companies get to be part of complex financial groups, which requires even more the existence of an organization for monitoring, evaluation and supervision.

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