

CONTROL AND SUPERVISION OF INSURANCE COMPANIES

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Abstract:

Insurance is subject to strict supervision and regulation in most countries, particularly for the protection of insured persons and for enhancing the role of such services in the process of economic development.

The directives adopted by the European Commission in the field of insurance require better cooperation between Member States, particularly as regards the supervisory system and, above all, to confer full supervisory rights on the national authorities of an EU Member State over insurance companies established in another State.

Key words: control, supervision, companies in the insurance sector,

JEL classification: H26, G22, M40, M41

INTRODUCTION

As early as 1968, Hammond stated that “studying insurance without first studying risk and uncertainty is the same as studying medicine without understanding anatomy.”¹

Elizur Wright is a well-known name in the field of American insurance, he is the founder of several insurance companies in the United States, and has introduced several new laws in the field, including the introduction of State control of insurance activities, idea implemented in 1858 in Massachusetts.²

In 1921, the company “**Prima Ardeleană**” “may have been the first company in the country to demand for legislation of the insurance industry and the **introduction of a control**”.³

Control must be seen in terms of achieving a balance between risks and benefits, in the sense that there are dynamic ways of managing market risk and not rigid patterns of regulation. Of course, there is no general rule, but in principle the following formula can be addressed:

¹ Hammond, J. D. – Essays in the Theory of Risk and Insurance, Scott, Foreman & Glennview, 1968, p. 1.

² Bogdan Decebal Manole - Controlul în asigurări, Editura Casa cărții de știință, Cluj Napoca, 2005, p. 14 (Bogdan Decebal Manole - Insurance Control, Casa cartii de stiinta Publishing House, Cluj Napoca, 2005, p. 14)

³ Pitu Ion D. - Prima Ardeleană - Societate anonimă de asigurări generale, Tiparul Institutului de Arte Grafice ”Dacia Traiană” S.A., Sibiu, 1941, p. 60-69 (Pitu Ion D. - Prima Ardeleană - General insurance anonymous company, Printing House of the "Dacia Traiana" S.A. Institute of Graphic Arts, Sibiu, 1941, p. 60-69)

- establishing a market risk limitation structure by addressing the main factors of market risk in conjunction with the volume and complexity of the company's activity.
- setting limits on the net and gross positions of market risk concentrations, the maximum accepted loss.
- setting alert signals when limits are exceeded, requiring revision and position remedial action.

Although very well understood, market risk is still undetectable in many positions and the attempt to evaluate it is based on many scenarios. It involves the less liquid assets and liabilities that cannot be measured objectively and reasonably. Fortunately, the adoption of the IAS favors the recording of fair values of assets and liabilities without affecting the reporting of company profits and thereby encourages greater attention to market risk.

Risk control – also known as damage control – is defined by conscious action or the decision to act to reduce the frequency or severity of the consequences of accidental damage.

From a theoretical point of view, an infinite of risk control measures can be applied for the various exposures to damage. However, in what follows, we will only stop on the most important of these. By risk control *measure* we will understand any action that leads to a reduction in the frequency or severity of damage, such as the installation of an alarm system.

CONTROL AND SUPERVISION OF INSURANCE COMPANIES

For the achievement of the objective of establishing a single authority for the regulation and supervision of insurance activities in the E.U., the *Insurance Committee* was established in 1992 and is attached to the European Commission.

The insurance activity is regulated by each state, each having a body that is entrusted by law with the supervision of the insurance activity. In the United Kingdom since March 2002, there is only one body supervising the financial market, namely the Financial Service Authority and in Romania it is the Insurance Supervisory Commission which was established in 2001.

From an administrative point of view, the *supervisory authorities* of the insurance market were constituted:

- ☞ as independent bodies subordinate to Parliament - as in the *Netherlands*.
- ☞ either subordinated to the government or a ministry (finance, trade, etc.) - such as in the *United Kingdom*, belonging to the Department of Trade, or in *Romania*, belonging to the Ministry of Finance.

There are two forms of protection for insured persons in the European Union:

- 1) in the United Kingdom⁴ and the Netherlands, the emphasis is on monitoring the solvency of insurers and the turnover of compulsory insurance;
- 2) in Germany and other countries, the emphasis is on controlling the accuracy of insurers' operations.

The main supervisory authorities in Europe are⁵:

- AUSTRIA - Financial Market Authority (FMA).
- BELGIUM - Commission bancaire, financiere et des assurances (CBFA).

⁴ The United Kingdom withdrew from the European Union on 31 January 2020

⁵ http://mediainvestba.ro/index.php?pagina=autoritati_de_supraveghere

- BULGARIA - Financial Supervision Commission.
- CYPRUS - Ministry of Finance - Insurance Companies Control Service.
- CZECH REPUBLIC - Office of the State Supervision for Insurance and Pension Funds.
- DENMARK - Finanstilsynet (Danish Financial Supervisory Authority).
- ESTONIA - Finantsinspektsioonile (Financial Supervision Authority).
- FINLAND - Insurance Supervisory Authority.
- FRANCE - Autorite de Controle des Assurances et Mutuelles (ACAM).
- GERMANY - Bundesanstalt für Finanzdienstleistungsaufsicht (BAFIN).
- GREECE - Ministry of Development. Direction of Insurance Undertakings and Actuary.
- HUNGARY - Hungarian Financial Supervisory Authority (HFSA).
- IRELAND - Irish Financial Services Regulatory Authority.
- ICELAND - The Financial Supervisory Authority.
- ITALY - Insurance supervisory authority (ISVAP).
- LATVIA - The Financial and Capital Market Commission.
- LIECHTENSTEIN - Financial Market Authority (FMA).
- LITHUANIA - Insurance Supervisory Commission.
- LUXEMBOURG - Commissariat aux Assurances.
- MALTA - Financial Services Authority.
- NORWAY - Kredittilsynet (The Financial Supervisory Authority of Norway).
- NETHERLANDS - De Nederlandsche Bank.
- POLAND - Polish Financial Supervision Authority (PFSA).
- PORTUGAL - Instituto de Seguros de Portugal.
- ROMANIA - Comisia de Supraveghere a asigurarilor (Insurance Supervisory Commission).
- SLOVAKIA - National Bank of Slovakia.
- SLOVENIA - Insurance Supervision Agency (ISA).
- SPAIN - Direccion General de Seguros y Fondos de Pensiones.
- SWITZERLAND - Bundesamt für Privatversicherungen (Federal Office of Private Insurance).
- SWEDEN - Finansinspektionen (The Swedish Financial Supervisory Authority).
- UNITED KINGDOM - Financial Services Authority (FSA).

The financial crisis has highlighted the limits and sometimes the shortcomings of the European supervisory system. As it was unable to detect the accumulation of excessive risks, supervision and control did not intervene in time.

As a result, the European Union has introduced three new European authorities for the supervision of financial activities, including an insurance-related authority, namely the ***European Insurance and Occupational Pensions Authority*** (EIOPA). This authority together with the other two (the European Banking Authority and the European Securities and Markets Authority) have been set up to detect problems in time and to act in a timely manner.⁶ They started their activity on January 1, 2011.

⁶ Raport general privind activitatea Uniunii Europene, 2011, p. 21 (General report on the activity of the European Union, 2011, p. 21)

„EIOPA is part of the European System of Financial Supervision. It is an independent body providing advice to the European Commission, the European Parliament and the Council of the European Union”⁷.

„EIOPA helps **identify, assess, mitigate and manage risks and threats to the financial stability** of the insurance and occupational pensions sectors”⁸.

In Romania by Law no. 216 of Insurance, of 1930, the Office for the Supervision of Private Insurance was established, through which insurance or reinsurance was concluded. This office operated under the Ministry of Industry and Trade. “The most important regulation of the insurance activity in Romania was the appearance of the Law aforementioned, from 1930, which regulated the establishment, organization and operation of private insurance companies, the insurance contract and the supervision of the insurance activity. This supervisory body called the Control Office.”⁹

In Romania, after 1990, with the transition to a market economy, important legislative changes appeared which led to the abolition of the state monopoly, the emergence of several insurance companies and the establishment of the competitive climate on the Romanian insurance market. “Starting with the abolition of the State Insurance Administration – on December 31, 1990 – and with the promulgation of Law no. 47/ 1991 on the establishment, organization and operation of insurance companies, the premises were created for de-monopolization and **termination of State budget control** over insurance funds.”¹⁰

Law 32/ 2000 provides for the establishment of the **Insurance Supervisory Commission**, an independent, autonomous body, financed by insurance companies, with the role of regulating, controlling, and supervising the insurance market.

In **2001, ISC - the Insurance Supervisory Commission** was established, the National Authority that deals in Romania with the regulation and supervision of the insurance-reinsurance activity. ISC is “the *specialized autonomous administrative authority*, with legal personality, whose main purpose is to protect the rights of insured persons and to promote the stability of the insurance activity in Romania.”¹¹

According to Article 4 of Law 32/ 2000 updated September 19, 2016, the **supervision and control of compliance with the provisions of the law** are the responsibility of the Financial Supervision Authority (F.S.A.), to protect the rights of insured persons and promote the stability of insurance activity in Romania.

CONCLUSIONS

An important stage in the integration of the Romanian insurance market in the EU market is the creation of a competitive framework adequate for a decentralized economy, dominated, until 1989, by the monopoly of the State Insurance Administration.

⁷ https://europa.eu/european-union/about-eu/agencies/eiopa_en

⁸ https://europa.eu/european-union/about-eu/agencies/eiopa_en

⁹ Caraiani Gheorghe, Tudor Mihaela - Asigurări. Probleme juridice și tehnice. Editura Lumina Lex, București, 2001, p. 10 (Caraiani Gheorghe, Tudor Mihaela - Insurance. Legal and technical issues. Lumina Lex Publishing House, Bucuresti, 2001, p. 10)

¹⁰ Pîrvu Daniela, Rădulescu Magdalena – Evoluții financiare pe piața asigurărilor de viață în România, Annales Universitatis Apulensis Series Oeconomica, volumul 2, Nr. 8/2006 (Pîrvu Daniela, Rădulescu Magdalena - Financial evolutions on the life insurance market in Romania, Annales Universitatis Apulensis, Oeconomica Series, volume 2, No. 8/2006)

¹¹ Anuarul Asigurărilor, Editura Media XPRIMM, București, 2009, p.15 (Insurance Yearbook, XPRIMM Media Publishing House, Bucuresti, 2009, p.15)

The first step taken in this regard was the elaboration of *Law no. 47/ 1991* on the establishment, organization, and operation of insurance - reinsurance companies, which was repealed with the publication of *Law 32/ 2000*.

Currently, the regulation of the insurance activity is carried out through normative acts that set out the insurance activity in terms of its organization and operation, as well as in terms of substantive law, starting from the framework laws specific to the insurance sector.

The adoption of *Law no. 32/ 2000* marks the beginning of a new cycle of the reform process of the Romanian insurance market, as it aims to de-monopolize and open the market for foreign investments in the field, the provisions of the new normative act establish the basic principles of management and supervision of insurance activities in accordance with the recommendations contained in European Union directives.

The supervisory activity is a necessity for the protection of the insured persons and the national insurance and reinsurance market, being necessary also due to the rapid development of this sector, the increasing competition, and the internationalization of the insurance companies. Contrary to this situation is the increasing difficulty of the supervision process due to the diminished transparency of the sector by the obvious trends manifested in recent years through the acquisitions and mergers of many insurance and reinsurance companies, banks, or investment companies. As a result, large insurance companies become part of complex financial groups, which further requires the existence of a monitoring, evaluation, and supervision organization.

We consider that the supervision of insurance companies is the most important activity of the insurance market authority, and the need for supervision is closely related to achieving and maintaining a balance between the financial soundness of companies and market influences and requires the development of legislation and regulations to ensure the continuity and solvency of insurance companies, while continuously monitoring compliance with the legal requirements.

For the protection to be certain and credible, insurance companies operate within a well-established legal framework, benefiting from close monitoring by the Insurance Supervisory Commission.

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