

INSURANCE SECTOR

1.09

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE				
<p>We believe it is necessary to establish a strategy for insurance against natural disasters and other acts of nature to ensure that in the event of a major adverse event, a significant share of claims would be transferred to insurance companies. Avoiding new charges on existing contracts is important, as these would result in additional expenditures for a small number of the insured who now have insurance coverage, a measure already proposed by the Ministry of Finance.</p> <p>The implementation could be carried out gradually, through the introduction of mandatory:</p> <ul style="list-style-type: none"> i) insurance for all state-owned and public property and infrastructure; ii) coverage for all property designated as collateral for financing; iii) coverage against natural disasters and other "acts of nature," including fire insurance, for all property, based on the French model. 	2015			√
<p>A natural catastrophe (nat cat) insurance pool mechanism with obligatory or semi obligatory coverage should be considered. There are examples, which are far from perfect but show that these mechanisms are conducive to increasing national coverage and risk management (Romania and Turkey). Tax cuts for insurance should also be evaluated to promote nat cat insurance in the corporate sector.</p>	2018			√
LAW ON PERSONAL INCOME TAX				
<p>Amendments to the Law to create conditions for the introduction of tax relief for all types of life insurance premiums, which would not only stimulate the development of the insurance sector, but also create the conditions for improving the social function of these types of insurance</p>	2015			√
AUTO INSURANCE MARKET				
<p>Liberalization of AI prices (erasure of paragraph 1 and 2 of Article 45 of the Law on Compulsory Traffic Insurance) would have immediate benefits for both the traditional distribution channels (independent outlets) and development of promising alternatives, such as the online distribution and sales outlets in banks.</p>	2013		√	
<p>Insurance companies should be allowed to register cars at their own premises.</p>	2013			√
INSURANCE LAW				
<p>Adoption of a new set of insurance laws: the Insurance Supervisory Law (ISL), the Insurance Contract Law (ICL) and the Law on Insurance Brokers and Agents.</p>	2013			√
<p>Amend Article 98, Paragraph 2 of the Law on Insurance, to enable public utility companies registered in the Republic of Serbia in accordance with the Law on Public Utility Services, to perform insurance brokerage/agency activities with the prior consent of the NBS.</p>	2018			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
NEW LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM				
Amend provisions of Article 26 of the Law and clearly define that the procedure for determining and verifying the beneficiary's identity as well as their official status should be conducted after the submission of the request for payment, and before the payment of the insured sum.	2018			√
Amend Articles 30-33 of the Law and clearly define who the third parties are, and then consider granting mediators and agents special treatment.	2018			√
The law must clearly define that mediators and agents may perform actions and measures of customer due diligence on behalf of and in accordance with instructions of the insurance company, and in such a case the insurance company is not relying on actions and measures of these obliged entities, but merely entrusting them with these operations. This is in accordance with interpretations of Financial Action Task Force on Money Laundering (FATF) recommendations	2018			√
Obligation from Article 124 is not envisaged by European regulations (only in Croatia and Serbia); hence, two alternatives should be provided: 1. erasing the provision under Article 124, paragraph 1, of the Law, or 2. defining the provision in more detail to adjust the obligation to the insurance industry, and extend the legal deadline for another year. Envisage that clients' portfolio be assessed from the aspect of the clients' risk rating and classified in one of three risk categories, according to data available and publicly available lists and records.	2018			√

OVERVIEW OF THE INSURANCE MARKET

CURRENT SITUATION

There are 20 insurance companies in Serbia, 16 of which are engaged exclusively in insurance activities, while four companies are engaged in reinsurance activities. As far as insurance companies are concerned, four of them are life insurance companies, while six companies deal exclusively in non-life insurance and six in both life and non-life insurance.

The market is still very concentrated: i) the market leader, Dunav, holds a 27.6% share by GWP criteria; ii) the three largest insurers together hold 60.9% of the market; and iii) the five leading insurance companies control 78.4% of the market.

Majority foreign-owned companies (15 out of 20) undoubtedly dominate the market, accounting for 77.6% of total assets (62% in non-life insurance premiums and 90.7% in life insurance premiums).

Based on the data for 2018, the insurance market recorded a premium of RSD 99.9 billion (EUR 845 million), which is a nominal and real increase of 7.3% and 5.2%, respectively.

The following changes were observed in 2018 relative to the previous year:

- the insurance sector's revenues increased by 9.8% to RSD 279 billion;
 - capital increased by 13.9% to RSD 61.5 billion;
 - technical reserves increased by 22.8% to RSD 197.3 billion.
- Compared to the previous year, the structure of investing of these assets changed to a certain extent in 2018. Even though state securities posted an increase of the absolute amount, compared to 2017, in the investment structure their share declined due to a significant increase in technical reserves at the expense of the co-insurers, reinsurers and retro-assignors, as a result of great damages, which increased their share in the investment of assets in technical reserves;
- the total premium reached the level of RSD 99.9 billion, with a growth rate of 7.3%;
 - the share of non-life insurance in total premium was still dominant, at 76.2%; the non-life insurance premium recorded a 6.6% growth, while the motor vehicle liability

- insurance, property insurance and full coverage motor vehicle insurance ("kasko") also recorded growth;
- the share of life insurance in the total premium decreased from 24.4% to 23.8%;
 - the number of insurance companies decreased from 21 to 20, while the number of employees, of 10,566, dropped by 2.3%.

The founding of insurance companies and their activities

are regulated and managed according to the new Insurance Law from December 2014, and relevant by-laws of the National Bank of Serbia (NBS).

Other significant legal sources are the Law on Compulsory Traffic Insurance, the Law on Health Insurance, the Law on the Protection of Financial Service Consumers in Distance Contracts, and the Law on Contracts and Torts. The lateral relevant legal source is the Law on Traffic Safety.

INSURANCE COVERAGE FOR NATURAL DISASTERS AND OTHER ACTS OF NATURE

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CURRENT SITUATION

Due to its geographical complexity, Serbia is prone to natural disasters and other extreme events, which are relatively frequent (2005, 2006, 2010, 2014 and 2015 in this century alone). The number of sold insurance policies against natural disasters and other disasters did not drastically increase after the catastrophic floods in 2014, which resulted in damages exceeding EUR 1.5 billion, despite the fact that Serbia

was impacted by floods in following years as well. The year 2019 is not an exception, since it also brought a significant number of floods and bad weather conditions, but the number of sold policies has not changed significantly.

POSITIVE DEVELOPMENTS

None

REMAINING ISSUES

In Serbia, insurance in general, but particularly insurance coverage against natural disasters and other "acts of nature," is regarded as an expense or a charge, not as a means of transferring risks, and for this reason its growth rate is the lowest in Europe.

FIC RECOMMENDATIONS

- We believe it would be necessary to establish a strategy for insurance against natural disasters and other acts of nature to ensure that in the event of a major adverse event, a significant share of claims would be transferred to the insurance company. Avoiding new charges on existing contracts is important, as these would result in additional expenditures for a small number of the insured who now have insurance coverage, a measure already proposed by the Ministry of Finance.
- The implementation could be carried out gradually, through the introduction of mandatory:
 - (i) insurance for all state-owned and public property and infrastructure;
 - (ii) coverage for all property designated as collateral for financing;
 - (iii) coverage against natural disasters and other "acts of nature," including fire insurance, for all property, based on the French model.
- A natural catastrophe (Nat Cat) insurance pool mechanism with obligatory or semi-obligatory coverage should be considered. There are examples, which are far from perfect but show that these mechanisms are conducive to increasing national coverage and risk management (Romania and Turkey). Tax cuts for insurance should also be evaluated to promote Nat Cat insurance in the corporate sector.

THE LAW ON PERSONAL INCOME

CURRENT SITUATION

Taxation of natural persons is regulated by the Law on Personal Income Tax. When it comes to life insurance, the

Law does not contain sufficient grounds for exempting life insurance premiums from taxation.

POSITIVE DEVELOPMENTS

Since the amendments of 2017, collective life insurance in the event of death of an employee due to illness, covering all employees of a company, paid for by the employer, is no longer taxed.

FIC RECOMMENDATIONS

- Amendments to the Law to create conditions for the introduction of tax relief for all types of life insurance premiums, which would not only stimulate the development of the insurance sector, but also create the conditions for improving the social function of these types of insurance, which at the same time diminishes the state's obligation to care for these persons.

AUTO INSURANCE MARKET 1.50

CURRENT SITUATION

Auto Insurance (AI) is by far the most important segment of the insurance market in Serbia (34.4% of the total in 2017) and the technical inspection facilities performing the compulsory annual inspection of all motor vehicles are definitely the most important distribution channels for these insurance policies. Article 44 and 45 of the Law on Compulsory Traffic Insurance prohibits the payment of any commission to these technical inspection facilities – whether directly and/or through related parties – which exceeds 5% of the gross insurance premium. This provision of the law has been ignored by the market for a long time, with noticeable differences in the practices of individual companies, which pay the commission rates of up to 50% despite the legal prohibition. This, despite the increase in the minimum rate (up to 45% since 1 July 2014), which provided the market with the “necessary oxygen” in terms of cash flow and profitability, has put into question the sustainability and predictability of the overall insurance market.

Moreover, the AI market has deteriorated in the period from 2013 – 2017 as a consequence of the new approach

by the Tax Administration, in the distribution of AI, in connection with the payment of lease for office space used for the purpose of selling motor vehicle liability insurance by sole traders. In its interpretation, the Tax Administration has transferred the tax liabilities to insurance companies, instead of the sole traders, and they charged high subsequently calculated taxes to some companies, which responded by taking legal action against the Tax Administration. As a result, business conditions in the market have worsened and some insurance companies have withdrawn from the active automobile insurance market.

POSITIVE DEVELOPMENTS

However, in Q3 of 2018, there was a great shift at the initiative and by order of the supervisory authority (NBS), so in the final quarter of 2018 and Q1 of 2019, insurance companies largely adjusted their operations on the AI market (contracts with agencies, etc.) with the legal frameworks and with the respect of the maximum commission rates for the sale of policies of compulsory insurance against motor liability. In Q2 and Q3, the NBS launched a detailed and comprehensive control of business operations of insurance companies in this segment.

FIC RECOMMENDATIONS

- Insurance companies should be allowed to register cars at their own premises.
- Allow the issuance of compulsory insurance motor liability policies in electronic form.
- Increase the supervision of operations of insurance companies on the AI market.

INSURANCE LAW

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REMAINING ISSUES

I. Article 62, paragraphs 5 and 6 of the Law, require at least one member of the supervisory board, and/or one member of the executive board to have active knowledge of the Serbian language and permanent residence in the Republic of Serbia, while other members of the executive board must have permanent residence in the Republic of Serbia, and all members of the executive board must be full-time employees at an insurance company.

Upon analyzing the aforementioned provisions of the Law, through the prism of split companies, it has been concluded that the latter will have to duplicate the aforementioned functions and thus be directly punished for complying with the law. Furthermore, Article 62(3)(1) stipulates that a member of a management body may not be a person who is a member of the management or supervisory body or a procurator in another insurance, reinsurance company or any other financial sector entity. This will result in an unequal market position, which is contrary to Article 84 of the Constitution.

II. The Law now permits representation in insurance operations at a company for representation in insurance, and mediation in insurance at a mediation company to be performed by persons who have the authorization of the NBS based on employment or engagement outside of employment.

Subject to the prior consent of the NBS, insurance representation may be performed as a supplementary activity by the following:

- a bank headquartered in the Republic of Serbia, incorporated in accordance with the law governing banks;
- a financial leasing provider headquartered in the Republic of Serbia, incorporated in accordance with the law governing financial leasing;
- a public postal operator headquartered in the Republic of Serbia, incorporated in accordance with the law governing postal services.

In addition, insurance brokerage/insurance agency activities may also be performed by persons who are not subject to the Insurance Law, provided that the amount of the annual insurance premium per insurance contract does not exceed the amount of EUR 100, that the contract period does not exceed five years, and that it does not relate to compulsory or life insurance.

The Insurance Law should be amended to ensure that utility companies registered in Serbia in accordance with the Law on Public Utility Activities, in the same way as the public postal operator, may perform insurance brokerage activities with the prior approval of the NBS. The current solution of the Law on Insurance does not allow public utility companies to carry out these activities, although there is a long tradition in Serbia of stipulating insurance contracts and paying insurance premiums through public utility companies' bills. This tradition was interrupted at the beginning of 2016, when the NBS banned the introduction of new policyholders into insurance policies through public utility companies' bills. Bearing in mind a large number of insured persons paying the insurance premium in this way and the need of the market to continue this practice of expanding insurance coverage that has a wider social significance for easier accessibility of insurance to the average user, it seems that amendments to the Law on Insur-

ance should enable interested public utility companies to engage in these activities.

III. Equal treatment must be guaranteed to all participants in the insurance market. In that sense, amendments to the law should enable a merger between companies that conduct life and non-life insurance business separately, if the companies have the same shareholders, or if those shareholders have a controlling share in both companies.

IV. To establish a more precise and systematic structure, the insurance business should be regulated by three different laws, modelled on the laws of some European countries, in accordance with EU guidelines and directives: the Insurance Supervisory Law (ISL), the Insurance Contract Law (ICL) and the Law on Insurance Brokers and Agents. While the ISL deals primarily with the relationship between the supervisory authority and the insurance company, as well as with status issues, the ICL defines the relationship between the insured and the insurer, i.e. their mutual contractual obligations, and the Law on Insurance Brokers and Agents regulates the sale of insurance through other licensed persons or alternatively a tripartite law.

It is especially important to adopt the Insurance Contract Law because the relationships arising under insurance contracts are not fully regulated. First, a number of provisions governing insurance contracts are found in other laws and by-laws while there are various other laws which do not regulate the specific substance of the contractual relationship in insurance, but have an impact on the relationships arising from insurance contracts (e.g. the Consumer Protection Law etc.). Second, certain matters directly related to insurance contract relationships are not regulated by the LCT (or not regulated at all). In this sense, there are no provisions in the law of the Republic of Serbia which specifically regulate insurance brokerage agreements and insurance agency agreements, as well as co-insurance contracts or reinsurance contracts. Also, the LCT provisions that govern the insurance contract have certain deficiencies that have emerged through practice in the application of the Law in these 39 years. Primarily in relation to liability insurance that is regulated by only one article. Also, changed social circumstances, technological changes and modern supranational regulations (EU) necessitate the implementation of certain amendments to LCT provisions.

FIC RECOMMENDATIONS

- Adoption of a new set of insurance laws: the Insurance Supervisory Law (ISL), the Insurance Contract Law (ICL) and the Law on Insurance Brokers and Agents
- Amend Article 98, Paragraph 2 of the Law on Insurance, to enable public utility companies registered in the Republic of Serbia in accordance with the Law on Public Utility Services, to perform insurance brokerage/agency activities with the prior consent of the National Bank of Serbia.

NEW LAW ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

CURRENT SITUATION

The new Law on Prevention of Money Laundering and Terrorist Financing began to apply on 1 April 2018, and has

serious implications for the operations of insurance companies selling life insurance.

Article 8 of the Law does not recognize life insurance contracts (the so-called "risk insurance") as exceptions from the obligation to conduct actions and measures of customer due diligence, as defined in the previous Law.

Article 26 of the Law on the Prevention of Money Laundering and Terrorism Financing sets forth:

- the obligation to determine the identity of the policyholder at the moment when the client designates it, by collecting information about the name of the policyholder
- the obligation to verify the identity of the insurance beneficiary at the moment of payment of the insured sum,
- the obligation to determine whether the policyholder is a holder of a public office, and if so, take measures envisaged under Article 38 of the Law

Article 124(1) of the Law envisages the submitting entity's obligation to take the actions and measures referred to in Articles 5 and 6 of this Law with regard to the clients with whom it had established a business relationship before this Law entered into force within one year of the entry into force thereof, which created a number of problems in the application of this provision, especially at insurance

companies with multi-year contracts with the insured with whom they are not in continuous contact.

REMAINING ISSUES

As regards Article 8, bearing in mind the legal nature of such contracts which provide coverage for biometric risks (death and disability) only, and envisage no option of payment of surrender value, policy loan or advance or pure endowment policy, and in view of the existing modalities of payment, it is clear that the potential money laundering and terrorism financing risk as such is unfeasible and that it requires special treatment. Classification in the low-risk category and the application of simplified procedures is not a mitigating circumstance, considering that significant resources are spent on the identification of the legal entity and beneficial owner.

FIC RECOMMENDATIONS

- Article 8 of the Law should be amended so that the insurance company, insurance brokerage company, insurance representation company and insurance agent with license to perform life insurance operations, can skip customer due diligence actions and measures when stipulating a life insurance contract where the individual premium instalment or the sum of several insurance premium instalments to be paid in one calendar year per insured does not exceed the equivalent of EUR 1,000 in dinars according to the official NBS median exchange rate, or if the payment of a single premium does not exceed the equivalent of EUR 2,500 in dinars;
- Adopt the initiative of insurance companies for amending Article 8 of the Law, to exclude taxpayers from the implementation of actions and measures prescribed by the Law when it comes to a contract on life insurance in the event of death (the so-called "risk insurance").