

Amended rules on insurance supervision

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Introduction

The revised Insurance Supervisory Law has been in effect since January 1 2006. The need for further revision has been revealed through lessons learned from the global economic and financial crisis and the introduction of risk-based solvency measuring methods including:

- the Swiss Solvency Test;
- the European Insurance and Occupational Pensions Authority's 2011 equivalence test; and
- the Financial Sector Assessment Programme of the International Monetary Fund's 2013 analysis.

For these reasons, the Federal Council decided to partially revise the Insurance Supervisory Ordinance. The revised ordinance became effective on July 1 2015. It brought about certain modifications to the supervision of insurers and conglomerates. In particular, the revised ordinance contains amended rules regarding:

- solvency;
- qualitative risk management; and
- disclosure.

Solvency

The amendments regarding solvency have allowed the recognition of equivalence between Swiss solvency rules and the requirements of the EU Solvency II Directive. The recognition of equivalence was of particular interest to Swiss reinsurers so that they could continue to do business from Switzerland within the European Union without having to deposit collateral. In addition, the EU supervisory authorities acknowledge the Swiss Financial Market Supervisory Authority (FINMA) as the global group supervisor over insurance groups domiciled in Switzerland and entertaining subsidiaries in the European Union.

Before the revision, two equivalent methods of solvency measuring existed:

- Solvency I; and
- the Swiss Solvency Test.

As a result of the partial revision, all insurers have, in practice, become subject only to the Swiss Solvency Test. Also, precedence of the use of standard models has been further emphasised. FINMA will make these standard models available.

Qualitative risk management

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Qualitative risk management encompasses non-financial performance (ie, the organisation, structure and processes of a company). As well as actual risk management, the following are also involved:

- corporate governance (with its allocation of tasks between boards of directors and company management);
- controlling function; and
- observance of the legal framework.

Requirements for proper management

Going forward, specific requirements apply regarding the professional knowledge and time budget of each board member. Requirements vary depending on the individual insurer and the composition of the board of directors. In addition, demands on separation of personnel between board of directors and company management are increased and the principle of checks and balances is strengthened. Insurers have a three-year transition period to implement the prohibition of dual membership (board member and management).

Self-assessment of risk situation and capital needs

In future, the requirements for insurers concerning self-assessment of the risk situation and capital needs (ie, own risk and solvency assessment) will be implemented in accordance with internationally recognised standards.

Liquidity requirements

Insurers must meet the quantitative and qualitative liquidity requirements. On one hand, they are required to hold sufficient liquidity at any time to be able to meet their payment obligations, even under unfavourable conditions. On the other hand, they must be able to adequately identify and control their liquidity risks.

Disclosure rules

A functioning market and the protection of insureds require transparency as a basis for appropriate decisions. In particular, timely information about the risk exposure and financial situation of insurers is essential. For this reason, a disclosure regime has been realised which ensures equivalence with internationally recognised standards (eg, the International Association of Insurance Supervisors' Insurance Core Principles) and the EU rules under the Solvency II Directive. Going forward, insurers must disclose both qualitative and quantitative information. The current regulatory gap will be closed with this amended regime. To avoid competitive disadvantages for Swiss insurers, the new disclosure regime will be implemented on January 1 2016 (ie, simultaneously with the Solvency II Directive).

Comment

The establishment of the Swiss Solvency Test as the sole instrument for testing solvency and the focus on Solvency II will result in further harmonisation. Regarding qualitative risk management, it is expected that the revised Insurance Supervisory Ordinance will result in increased reporting efforts. Additional transparency will be achieved with the disclosure of the solvency results. The recognition of equivalence between the new Swiss solvency rules and the requirements of the Solvency II Directive strengthens the competitiveness of the Swiss insurance market. For internationally operating insurers and reinsurers in particular, competitive disadvantages and double engagement of regulatory bodies can be avoided.

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