



Central Bank of Armenia

**REPORT
COMPLIANCE EVALUATION**

**The European Council Directive 73/239 EEC on Coordination of Non
Life Insurance Laws, Regulations and Administrative Provisions**

December 2007

This report is designed to evaluate compliance of the Armenian laws on insurance with the requirements of the EC Directive One 73/239 EEC regarding coordination of non life insurance laws, regulations and administrative provisions.

The report consists of 3 parts and an appendix

- Description of the EU Act
- Compliance evaluation
- Conclusion.

The results of review conducted within the framework of this report showed that the regulations governing the issues in relation to non life insurance comply with the requirements of the EC Directive 73/239 EEC.

1. Description of the EU Act

The issues in relation to non life insurance are governed under the European Council Directive EEC on coordination of non life insurance laws, regulations and administrative provisions.

The goal of the Directive is to remove restrictions in establishing branch offices and agencies of insurance companies in Member-States and other countries. Further, the Directive aims to harmonize national legislations of Member-States and protect rights of policyholders, insured persons and third parties to make insurance within the EU framework more accessible.

The Directive regulates classification of risks by insurance classes aiming at determining insurance activities subject to licensing and the guarantee funds for insurance classes.

The Directive further regulates issues, terms and conditions for insurance company licensing, entry into market, carrying out insurance by new classes of insurance, measuring the extent of solvency, and revocation or withdrawal of an activity license.

The Directive specifically addresses the peculiarities of insurance business carried out by branch offices and representations established in the territory of the European Union by a Member-State or other country.

In Armenia, the issues relating to non life insurance are governed by the Armenian Law on Insurance and Insurance Activity (hereinafter referred to as ‘Law’)¹ and prudential regulations of the Central Bank of Armenia enacted pursuant thereto.

¹ AL-177-N, 09/04/2007.

2. Compliance evaluation

What types of insurance does the Law specify?

The Law specifies types of insurance, as follows:

- 1) any insurance, other than life insurance (hereinafter referred to as ‘non life insurance’);
- 2) life insurance; and
- 3) reinsurance.

The Directive has no requirement in relation to the types of insurance, but the international experience has shown that insurance falls into the three main classes mentioned above.

Evaluation: the Law complies with the approach practiced internationally.

Does the Law provide for classification of types of non life insurance into classes and subclasses?

Yes, the Law provides for such classification which is defined under the Directive and now practiced by the EU Member-States. The classification² provides that non life insurance consists of 18 classes and subclasses as appropriate.

The Law also establishes groups of classes of insurance when non life insurance is carried out by more than one insurance class.

Evaluation: the Law entirely complies with the requirement of the Directive as the classification defined thereby has been explicitly reflected in the Law.

Does the Law provide for creation of insurance cooperatives?

No, the Law says that insurance companies can only be established as joint-stock companies or limited liability companies.

Article 8 of the Directive provides possible organizational structures of an insurance company in each Member-State. It should be noted meanwhile that insurance cooperatives are out of the scope of the Directive, but some Member-States, however, allow creation of insurance cooperatives.

In Armenia, the relations arising out of cooperatives are governed under the Civil Code of the Republic of Armenia.³ But because the area of insurance is unique, there is need therefore to develop a separate paper addressing the peculiarities of such an organizational structure.

Evaluation: the Law complies with the requirement of the Directive as that, too, does not extend over insurance cooperatives.

Is insurance activity in Armenia subject to licensing?

Yes. Insurance activity is subject to licensing in Armenia, like in all EU Member-States. The Law prohibits carrying out insurance, reinsurance or insurance brokerage activities without an activity

² See the EC Directive One 73/239 EEC regarding coordination of non life insurance laws, regulations and administrative provisions, and an appendix.

³ AL-139, 05/05/1998, Articles 117-121.

license issued by the Central Bank. The Law provides that an activity license for insurance is a document attesting the Central Bank's permission to carry out insurance activities (Article 38(1)).

Article 6 of the Directive says that insurance activity can be carried out in case of receipt of preliminary official permission (license) from authorized bodies of Member-States.

Evaluation: the Law complies with the requirements of the Directive defining a stipulation that insurance activities shall be licensed.

Who may apply for an activity license?

Application for an insurance activity license is open to:

- any party that wishes to establish an insurance company in Armenia and meets the requirements laid down in the Law and regulations adopted pursuant thereto;
- an insurance company active in Armenia, an insurance company's branch office established in Armenia, and a foreign company's branch office active in Armenia, to receive permission for carrying out insurance activity by new classes.

Evaluation: there is full compliance with the requirement of the Directive.

What are the ways (through a branch office or subsidiary or through carrying out cross-border insurance activities without opening a branch office) to provide insurance service in Armenia?

The Law provides that insurance activity can be carried out through:

- a branch office of an insurance company;
- a subsidiary of an insurance company; and
- offering insurance services over the border (cross-border insurance activities).

According to the Law (Article 1(2)), foreign insurance companies may, without establishing a branch or subsidiary legal entity in Armenia, perform insurance activities through a public offering only if they are registered in countries that are parties to the agreements (acceded also by the Republic of Armenia) signed within the framework of the World Trade Organization; such legal entities may only perform insurance covering the following risks:

- 1) maritime shipping, civil aviation, spaceship launching and freight (including satellites); such insurance may cover transportable goods, transporting vehicle and any liability arising out of such transportation, both altogether and separately;
- 2) international freight carriage;
- 3) reinsurance and retrocession and other services related to reinsurance.

In this case, insurance by a foreign company may be carried out in Armenia with or without insurance intermediaries, and shall comply with the laws and prudential regulations of the Republic of Armenia.

The Law provides for three ways of:

- establishing of a branch office in Armenia by an Armenian resident company;
- establishing of a branch office in Armenia by a foreign company;
- establishing of a branch office abroad by an Armenian company.

The Law has a clear list of documents required for establishing a branch office; branch offices being established in Armenia by resident and foreign companies shall be registered by the Central Bank once the relevant documents are submitted.

Article 49 of the Law provides that an insurance company operating in the Republic of Armenia shall seek a prior consent of the Central Bank for establishing a branch office or representation outside Armenia by submitting the documents according to the format and content provided for by prudential regulations of the Central Bank.

The Law also provides for an opportunity to open a representation which, unlike the branch office, cannot carry out insurance activities.

The Directive, too, provides for offering insurance services through branch office and representation. Article 10 of the Directive says that, where an insurance company establishes a branch office in another member state, it shall notify the authorities of its country of this. In addition, the insurance company shall be required to submit the data and documents, as provided for under the Directive, to authorities of Member-States.

As for establishment of a branch office or representation in Member-States by non-resident insurance companies, article 23 of the Directive says that Member-States shall enable an insurance company located outside the EU to get official permission (license) for which there is need to meet the conditions provided for under the Directive.

Evaluation: the Law contains an equivalent arrangement providing an opportunity for carrying out insurance activities through branch office and cross-border insurance. It should be noted however that the scope of cross-border insurance activities is limited to certain types of risks deriving from Armenia's membership to the WTO.

Is an activity license issued for carrying out any type of insurance or for carrying out insurance by any specific class of insurance?

According to Article 39 of the Law, an activity license shall be issued for engaging in one or several classes or subclasses of insurance as defined by the Law⁴. The Law further provides that a company cannot be simultaneously engaged in insurance activities of life insurance and non-life insurance classes as defined by the Law, but the company can simultaneously carry out life insurance and life reinsurance or non-life insurance and non-life reinsurance.

The Directive states that an activity license shall be issued for an individual class of insurance and shall be valid for that class on the whole, unless the insurer wishes to insure individual risks of that given class (Article 7(2)).

However, as provided for under the same Article of the Directive and Article 7 of the Law, an activity license may be issued for the groups of classes specified in Appendix B of the Directive and Article 7 of the Law. These are:

- Accident insurance (including industrial injury and occupational diseases) and health insurance, which together will be called *accident and health insurance*;
- Accident insurance – injuries to passengers, land vehicles insurance (other than railway

⁴ Article 7 of the Law.

- rolling stock), goods (cargo) in transit insurance, motor vehicle (also cargo) liability insurance, which together will be called *motor vehicle insurance*;
- Accident insurance – injuries to passengers, railway rolling stock insurance, marine vessels insurance, goods (cargo) in transit insurance and marine vessels (also cargo) insurance that is included in the class of marine vessels insurance, which cover:
 - a) river and canal vessels;
 - b) lake vessels;
 - c) sea (ocean) vessels liability insurance, which together will be called *marine and transport insurance*;
 - Accident insurance – injuries to passengers, aircraft insurance, goods (cargo) in transit insurance and aircraft (also cargo) liability insurance, which together will be called *aircraft insurance*;
 - Fire and natural forces insurance, which covers all damage to or loss of property, which together will be called *fire and property damage insurance*;
 - Land motor vehicles (also cargo) liability insurance, aircraft (also cargo) liability insurance and marine vessels (also cargo) insurance that is included in the class of marine vessels insurance, which cover
 - a) river and canal vessels;
 - b) lake vessels;
 - c) sea (ocean) vessels liability insurance and general liability insurance, which together will be called *liability insurance*;
 - Credit insurance, including: a) insolvency (general), b) export credit; c) deferred payment (installment repayment), d) mortgage loans, e) agricultural credit, f) other credit insurance and surety insurance, including a) indirect and b) direct, which together will be called *credit and surety insurance*.

Evaluation: the Law has adopted the principles set forth in the Directive and, therefore, it complies with the requirements of the Directive.

<p><i>Will a company need to get an extra activity license for carrying out insurance by a new class?</i></p>

Yes. In Armenia, a company will need to receive an extra activity license to carry out insurance by a new class. At the same time however, the Law makes an exception from this rule. Specifically, according to Article 159 of the Law, to obtain an activity license to insurance by a new class, an operating insurance company shall, in accordance with the procedure and content established by prudential regulations of the Central Bank, submit to the Central Bank the following documents:

- 1) an application for obtaining an activity license to insurance by a new class;
- 2) amendments to the business plan of insurance company;
- 3) report of the certified actuary on the conformity of the total capital and minimum total capital of insurance company to the requirements established under the Law and prudential regulations of the Central Bank; and other relevant documents as provided for by prudential regulations of the Central Bank.

To carry out insurance by a new class, a branch office of an operating insurance company established in the Republic of Armenia shall submit the same documents listed above with the only stipulation that the application for an activity license will need to be submitted by the company having established the branch office. Besides, documents to be submitted shall include the decision of the authorized body of supervisor of the foreign company on permitting or not objecting the branch office to carry out insurance by a new class, or other relevant document.

A provision in Article 39 of the Law makes an exception from the general rule, stating that a company authorized to engage in certain classes of non-life insurance may, without an extra license, carry out additional insurance of the risk of another class of insurance, provided that the insurance risk is related to the object insured on the basis of the class of insurance indicated in the activity license, and that the insurance risk and the object are insured on the basis of the same insurance contract, except for insurance by classes of credit insurance, surety insurance, and legal expenses and out-of-court charges insurance.⁵

The Directive (Article 8(2)) establishes the documents required for carrying out insurance by a new class. Specifically, when a company seeks to extend its business to other classes or extend an authorization covering only some of the risks pertaining to one class shall be required to submit a business plan⁶ in accordance with the Directive, as well as it shall deliver articles of proof that it possesses a solvency margin⁷, as defined by the Directive, which amounts to Euro 2 mio, unless Article 17 of the Directive requires a larger guarantee fund for that class.

Article 17 further establishes that the solvency margin shall amount to Euro 3 mio for carrying out insurance by the following insurance classes of: land vehicles (also cargo) liability insurance; aircraft (also cargo) liability insurance; marine vessels (also cargo) insurance that is included in the class of marine vessels insurance, covering a) river and canal vessels, b) lake vessels, c) sea (ocean) vessels liability insurance; general liability insurance; credit insurance; and surety insurance.

Evaluation: the Law has adopted all the Directive-required principles that are designed for obtaining an extra activity license for insurance by new classes.

What are the organizational structures of insurance companies in Armenia?

The Law establishes that companies and reinsurance companies can be established solely as joint-stock company or limited liability company.

Article 8 of the Directive specifies possible organizational and structural types of insurance company in each member state.

Evaluation: because Armenia is not an EU member and the Directive does not provide for any specific requirement to an Armenian insurance company for organizational structure, the provision established under the Law does not contradict the Directive.

Does the Law require presenting a business plan when obtaining an activity license?

Yes, the Law requires that the stakeholders of insurance company present their business plan along with other requisite information as provided for under law for registration and licensing (Article 40(1)2).

A similar regulation is laid down in the Directive (Article 8 (1) (c)).

Evaluation: the Law complies with the requirement of the Directive.

What information will a business plan contain?

⁵ Article 39 of the Law.

⁶ Article 9 of the Directive.

⁷ Article 16 of the Directive.

Article 44 of the Law says that the business plan shall be prepared for at least the forthcoming 3 years and contain the following information:

- 1) internal organizational structure of Company;
- 2) calculation of incomes and expenses;
- 3) trends of financial prospective development;
- 4) description of markets identified to engage in;
- 5) main competitors and methods to withstand competition;
- 6) management methods and evaluation of potential risks;
- 7) list of the planned class and subclass of insurance sold by company or its branch office;
- 8) a technical business plan for each class and subclass of insurance;
- 9) reinsurance plan;
- 10) internal methods for calculation of technical reserves;
- 11) policy of allocation of assets covering technical reserves;
- 12) the amount of insurance premiums (insurance tariffs) and the justification thereof, signed by the certified actuary or the candidate of the head of the actuary subdivision, except when a reliable reinsurer's insurance tariff is applied according to the procedure established under the Law and prudential regulations of the Central Bank;
- 13) other information defined by regulations of the Central Bank.

The company may submit other information in respect of the business plan.

According to Article 9 of the Directive, the scheme of operations shall include:

1. the nature of risks the company proposes to cover;
2. the guiding principles as to reinsurance;
3. the items constituting the minimum guarantee fund;
4. the estimate of the costs of setting up the administrative services and the organization for securing business; the financial resources intended to meet those costs and, if the company provides for carrying out assistance insurance, the relevant financial resources should be indicated and, additionally, for the coming 3 years;
5. the estimate of management expenses (other than installment costs), in particular current general expenses and commissions;
6. the estimate of premium, or contributions or claims;
7. a forecast balance sheet, and the estimate of financial resources to cover underwriting liabilities and the solvency margin.

Evaluation: both the Law and the Directive provide for a requisite requirement to having a business plan, although the Law has determined several other requirements to be included in the business to reflect the peculiarities of the insurance field in Armenia.

<i>Can the parties affiliated with an insurance company serve a ground for declining to issue an activity license?</i>

Yes, an activity license may be declined where the Central Bank strongly believes that the activity, financial standing, adverse prestige or lack of financial experience of stakeholders or the parties affiliated therewith could damage interest or right of the policyholders, insured persons or beneficiaries, or could otherwise impede the normal functioning of the company or implementation of proper supervision by the Central Bank.

Evaluation: the Law conforms to approach used in the Directive as both Papers establish that the

impossibility to implement supervision can serve a ground to decline an activity license.

Will a company need to present a business plan to be allowed to carry out insurance by a new class?

According to the Law, a functioning insurance company needs not to present a new business plan for a new class of insurance, as provided for under the Directive, but rather it will deliver the amendments and/or changes in the plan as to carrying out a new class of insurance. In other words, the company will not need to present a new business plan and will present the respective changes instead.

Evaluation: one may conclude that the Law meets the stipulation of the Directive as the relevant provision aims to evaluate the changes taking place in the company attributable to the risk to be covered by any new class of insurance.

Should an insurance company notify the supervisor of the country of registration (hereinafter referred to as 'Supervisor') of its intention to register a branch office in another country? If yes, what other information needs to be presented along with such a notice?

Yes, Article 49 of the Law says that an insurance company operating Armenia must seek a prior consent of the Central Bank for establishing a branch office or representation outside Armenia by submitting the documents according to the format and the content provided for by prudential regulations of the Central Bank, as follows:

- 1) a letter of request for obtaining a prior consent to establish a branch or representative office outside Armenia;
- 2) the business plan of the branch or representative office to be established outside Armenia;
- 3) other documents provided for by prudential regulations of the Central Bank.

It should be noted that the way the Directive regulates branch offices is unique as its provisions govern the issues of establishing of a branch office by one Member-State in the territory of another Member-State. The peculiarity lies in that a regime of notification is applied.

As Article 10 of the Directive provides, where an insurance company intends to establish a branch office in another Member-State, it shall notify the supervisor of its home country of this, presenting the following documents:

1. the member state where the branch office should be established;
2. the scheme of operations and the structural organization;
3. the address in the member state of the branch office from which documents may be obtained and to which they may be delivered;
4. the name of the authorized party who must possess sufficient powers to represent the company in the relationships with the third parties and in judicial authorities.

Evaluation: one may conclude that, in principle, there is concordance in respect of this issue, since Armenia is not a Member State and, therefore, this regime is not applied to it. In the meantime, an international experience shows that there are other aspects of regulation defined in respect of setting up branch offices by third countries, and such regulation corresponds to the one established under the Law.

Does a company have an obligation to notify the supervisor of changes (if any) information presented along with the notice about establishment of a branch office?

The Law provides a regime of obtaining a preliminary consent rather than notice. So, the notifying of changes in information presented for obtaining the preliminary consent needs to be reviewed.

As the matter is about establishing of a branch office in another country by an Armenian insurance company, it would get its logical regulation under the legislation of any given country. It should be noted meanwhile that Article 51 of the Law provides for an obligation of notice of changes only for branch offices and representations of companies functioning in Armenia and of foreign companies.

Article 10(6) of the Directive, rather, says that in the event of changes in the information, a company shall give a notice of change to the supervisor of the home member state and of the member state of the branch office at least one month before making the change.

Evaluation: there is partial compliance as to giving notice of changes because the terms and conditions for notice of further changes in the information presented for establishing of a branch office are not clear.

Proposal: to include in the Law provisions regarding the supply of information by branch offices. To this end, it is proposed to carry out a compliance evaluation with the EU Directive 89/666/EEC on Company Rights. The Directive governs the issues in relation to disclosure of information by branch offices established by an EU Member State and by a third country.

May an applicant go to court to appeal a decision on waiver?

The answer is yes, although the Law contains no particular regulation in this regard. However, the applicant may use his general constitutional right to appeal a decision on waiver judicially.

Article 12 of the Directive clearly defines the possibility for judicial appeal.

Evaluation: although the Law has not established an explicit provision of the possibility for judicial appeal against the decision on waiver, the issue gets regulation under the Republic of Armenia Constitution.

Shall insurance companies create technical reserves according to the Law?

Yes. The Law⁸ provides that technical reserves shall be created in order to ensure secure and regular course of activities of insurance companies and to cover the current or future liabilities and possible losses arising out of insurance contracts.

The Directive also contains a requirement for creation of technical reserves. Further, Article 13 of the Directive provides that the purpose of technical reserves is to fulfill the obligations assumed.

Evaluation: the Law complies with the requirements of the Directive.

⁸ Article 3(24) and Article 69(1).

Does the Law provide for mandatory and non-mandatory reserves?

Yes, technical reserves are mandatory, according to Article 69(5). However, as provided for under paragraph 3 of the same article, an insurance company may create other reserves too, if agreed with the Central Bank.

Article 16(2)b of the Directive provides for reserves (statutory and free), i.e. mandatory or non-mandatory reserves, which neither comply with the obligations assumed nor are classified as equalization reserves.

Evaluation: the Law complies with the requirement of the Directive as to having mandatory and non-mandatory reserves.

Does the Law require companies performing credit insurance to create an equalization reserve?

Yes, article 69 of the Law says that an equalization reserve is mandatory to all insurance companies. As such, the equalization reserve shall be calculated separately for each insurance and each class.

According to Article 15a (1) of the Directive, a requirement for an equalization reserve shall be defined only for companies performing credit insurance. The Directive further defines that the rules of calculation of an equalization reserve shall be set by the legislation of a Member-State by using one of the approaches provided for under the Directive.

Evaluation: there is partial compliance with the Directive as the Armenian Law provides for crating an equalization reserve for all classes of insurance and when at least one of the stipulated conditions exists.⁹ Besides, though a company's incomes and expenses underlie the calculation of an equalization reserve, the Armenian Legislation has not defined any one out of 4 methods of calculation established under the Directive.

Does the Law contain a requirement for a solvency margin?

Yes, according to Article 58 of the Law, the Central Bank sets, *inter alia*, a prudential normative standard on solvency. The standard shall be as follows:

- 1) in case of non-life insurance and reinsurance - marginal ratio of the required solvency margin calculated through the method of insurance premiums in respect of total capital or its constituent parts;
- 2) in case of non-life insurance and reinsurance - marginal ratio of the required solvency margin calculated through the method of insurance indemnities in respect of total capital or its constituent parts.

Evaluation: the Law meets the Directive's requirement of a solvency margin.

What constituents does it have? Specifically, does it include:

1.1 the participants' actually paid-up capital;

⁹ An insurer shall create an equalization reserve, if at least one of the below conditions exists:

- 1) the standard deviation from an average loss-making ratio in the analyzed period is 5 percent and more;
- 2) there is at least one year in the analyzed period during which the actual indemnities have exceeded 100 percent of the amount of insurance premiums earned in that year.

*1.2 mandatory and non-mandatory reserves;
1.3 revenue or loss after payment of dividend?*

The Central Bank prudential regulations establish that the solvency standards include the constituents, as follows:

- Minimum Total Capital
- Solvency Margin Requirement.

Further, Statutory Capital comprises Tier 1 Capital and Tier 2 Capital, while Total Capital includes:

- paid-up statutory capital,
- general reserve,
- undistributed profit (revenue reserve);

Tier 2 Capital includes:

- the tangible assets revaluation reserve which is possessed by an insurance company to use for the purposes of insurance activities;
- the reserve for foreign currency revaluation arisen due to balance sheet consolidation;
- other reserves.

Evaluation: the Armenian Legislation generally conforms to the requirements of the EU Directive, with the only difference that the Directive provides all reserves, mandatory and non-mandatory, for an insurance company, other than a general reserve.

What are the elements deductible from the solvency margin? Do these include the amount of company's actual participation in:

- *other insurance companies;*
- *reinsurance companies;*
- *banks and credit organizations?*

Article 58 of the Law says that the limitations of the main prudential standards, the calculation procedure, the composition of constituent parts involved in the calculation or reduced therefrom shall be set forth by prudential regulations of the Central Bank. Such prudential standards can be defined by types, classes and subclasses of insurance.

The elements deductible, as determined by the Central Bank prudential regulations, comply with the elements established under the Directive, except where such elements do not include the participation in reinsurance companies. In addition, in view of the peculiarities of the Armenian market, the Central Bank regulations considered other deductions as well.

Evaluation: the Armenian Legislation complies with the requirements of the Directive.

Does the Law contain a requirement to create a guarantee fund? If yes, what are the constituents thereof and what will the extent of such a fund be?

As provided by the Directive, the guarantee fund shall constitute the 1/3 of the solvency margin and consist of:

- the property of insurance company, after the Directive-defined deductions, which is not intended for fulfillment of obligations;
- the cumulative preferential share capital and subordinated loan capital up to 50 percent of the lesser of the available solvency margin and the required solvency margin, no more than 25 percent of which shall consist of subordinated loans with a fixed maturity, or fixed-term cumulative preferential share capital, provided in the event of bankruptcy or liquidation of insurance company, binding agreements exists under which the subordinated loan capital or preferential share capital ranks after the claims of all other creditors and is not to be repaid until all other debts outstanding at the time have been settled.

The Guarantee fund shall not be less than Euro 2 mio.

Evaluation: the Law does not comply with the Directive's requirement only on the part of the term as the guarantee fund established under the Directive is the capital of the company.

Proposal: it is proposed to replace the term 'capital' for the term 'guarantee fund' in the Central Bank prudential regulations.

*Which are the grounds to operate an insurance company's activity license revoked?
What is the procedure (if any) for giving notice about the decision on revocation of an activity license?*

Article 45 of the Law says that the Board of Central Bank shall revoke the activity license of an insurance company, insurance brokerage company, and the registration of branch office of a foreign insurance company, operating in the Republic of Armenia, in cases of the winding up, reorganization (other than restructuring), insolvency, and other grounds provided for by law. The Board of the Central Bank may revoke the activity license of company as a punitive measure in case of violation of regulations by the company, as provided for by the Law.

Article 150 of the Law establishes the procedure for publishing about the license operated revoked and giving a notice of it to the company. The article further provides that the decision of the Board of the Central Bank on revocation of an activity license shall be published immediately. The said decision shall enter into force from the date of its publication, unless another date is specified by the decision.

The same article provides for the requirement of notice to the supervised entity of the activity license operated revoked, whereby a copy of the decision of the Central Bank on revocation of an activity license shall be delivered to the supervised entity within 3 days after its adoption.

According to Article 22 of the Directive, an activity license issued by a competent body may operate revoked, if the company:

- does not make use of that license within 12 months, expressly renounces it or ceases to carry on business for more than 6 months;
- no longer fulfils the conditions for admission;
- has been unable, within the time allowed, to take the measures specified in the restoration plan or finance scheme;
- fails seriously in its obligation under the regulations to which it is subject.

The Directive explicitly defines that in the event of withdrawal or lapse of authorization, the competent body of Member State shall notify the competent authorities of the other Member-

States accordingly, and that they shall take appropriate measures to prevent the company from commencing new operations within their territories. Further, any decision for an activity license to operate revoked shall be supported by precise reasons and communicated to the company in question.

Evaluation: there is compliance as to the requirement of notice of the decision on withdrawal of the activity license. There is however discrepancy with regard to the grounds on withdrawal of the activity license, due to a current practice in Armenia.

Will a company, whose solvency margin has gone down the threshold specified under the law, present a financial restoration plan to the Central Bank for approval?

No, there is not a normative standard like that under the Armenian legislation. According to the Law, the violation of or deviation from the prudential economic standards or technical reserve requirements established by the Law and the Central Bank regulations will serve a ground to withdraw the activity license.

According to the Directive, a competent body shall be authorized to require a financial restoration plan from the company, if there is reason to doubt that the rights of the insured are jeopardized. The financial restoration plan shall at least for the first three years contain:

- the administrative expenditures estimate;
- the program whereby the revenue and expense estimate on insurance and reinsurance is provided in detail;
- the draft balance sheet;
- the financial resources estimate designed to fulfill the obligations assumed, and the required solvency margins; and
- the reinsurance program.

Evaluation: the Armenian legislation generally lacks a norm like this. While the norm specified in the laws is not imperative thus allowing the Central Bank to decide whether or not to withdraw an activity license for any individual case, there is however no requirement to provide the supervisor with a financial restoration plan.

Proposal: it is proposed to establish a standard in the law whereby an insurance company shall be obliged to present a financial restoration plan to the Central Bank for approval, if it has deviated from the threshold of the solvency margin.

Does the Armenian law provide for a possibility of transfer of an insurance portfolio?

Yes, according to Article 123 of the Law, Companies operating in the Republic of Armenia may transfer an insurance portfolio owned by them (Transferor) to another Company operating in the Republic of Armenia (Transferee).

The Directive (Article 21) also provides for this possibility, unless the Company (Transferee) possesses the necessary solvency margin.

Evaluation: both the Directive and the Law provide for the establishment of an insurance portfolio.

What are the terms and conditions for the transfer of an insurance portfolio?

Article 123 of the Law provides that the insurance portfolio shall be transferred without having the consent of the policyholder. Policyholders wishing not to give consent for the transfer, may cancel their contracts, by receiving the insurance premium for the remaining period of the contract, as provided for by law.

An insurance portfolio can be transferred only upon preliminary authorization by the Central Bank, which shall be provided according to the procedure stipulated by the Law and prudential regulations of the Central Bank.

For transfer of the insurance portfolio, Transferor and Transferee shall enter into a contract which sets forth the rights and obligations of both contracting parties.

Article 21 of the Directive establishes that the supervisory authorities concerned shall consult with each other before approving the transfer of an insurance portfolio. Once approved by the competent supervisory authority, such transfer shall affect directly the insured persons and the policyholders.

Evaluation: as the interpretation of the Article 21 of the Directive ensues, the transfer can only be possible after having sought the preliminary consent from the competent supervisory authority.

<p><i>Does the Law enable a foreign company to establish a branch office in the Republic of Armenia? What is the regime for arrangement?</i></p>

Yes, the Law enables foreign companies to establish branch offices in Armenia while setting forth those basic requirements and conditions which these companies shall adhere to. It should be noted that the provisions of the Directive refer to the establishing of branch offices of an insurance company in the territory of the EU by Non Member-States.

3. Conclusion

The Republic of Armenia Law on Insurance and Insurance Activities and the prudential regulations adopted pursuant to that law mostly comply with the requirements of the EC Directive One 73/239 EEC regarding coordination of non life insurance laws, regulations and administrative provisions. The Law has committed to arrangements that comply with the principles of the Directive as to the above-discussed issues.

The main discrepancies relate to prudential economic standards established in respect of insurance companies, particularly the specificity of calculation of the solvency margin. Also, the Republic of Armenia legislation does not contain provisions for creation of a guarantee fund and an extent thereof.

There have been stricter approaches with regard to issues such as information to be provided in the business plan and etc., taking into account the peculiarities of the Armenian market.

N	Question	Yes	No	Partially complies	Notes
1.	What types of insurance does the Law specify?	√			The Directive provides no any specific requirement but the Law complies with the international practice.
2.	Does the Law provide for classification of types of non life insurance into classes and subclasses?	√			
3.	Does the Law provide for creation of insurance cooperatives?	√			
4.	Is insurance activity in Armenia subject to licensing?	√			
5.	Who may apply for an activity license?	√			Complies with the Directive-specified scope of parties that may apply for an activity license.
6.	What are the ways (through a branch office or subsidiary or through carrying out cross-border insurance activities without opening a branch office) to provide insurance service in Armenia?	√			The possibility for performing cross-border insurance is provided for in respect of some risks only.
7.	Is an activity license issued for carrying out any type of insurance or for carrying out insurance by any specific class of insurance?	√			
8.	Will a company need to get an extra activity license for carrying out insurance by a new class?	√			
9.	What are the organizational structures of insurance companies in Armenia?	√			
10.	Does the Law require to present a business plan when obtaining an activity license?	√			
11.	What information should a business plan contain?	√			The law establishes other information as well, in addition to what has been specified under the Directive.
12.	Can the parties affiliated with an insurance company serve a ground for declining to issue an activity license?	√			
13.	Will a company need to present a business plan to be allowed to carry out insurance by a new class?	√			Complies to the extent that the changes made to the business plan for performing insurance by a new class are submitted to the competent supervisor.
14.	Should an insurance company notify the supervisor of the country of registration of its intention to register a branch office in another country? If	√			

	yes, what other information needs to be presented along with such a notice?				
15.	Does a company have an obligation to notify the supervisor of changes (if any) information presented along with the notice about establishment of a branch office?			√	There is partial compliance as to the notice of changes, since the terms and procedure for notifying further changes to the information in the event of establishment of a branch office are not clear.
16.	May an applicant go to court to appeal a decision on waiver?	√			
17.	Shall insurance companies create technical reserves according to the Law?	√			
18.	Does the Law provide for mandatory and non-mandatory reserves?	√			
19.	Does the Law require companies performing credit insurance to create an equalization reserve?			√	Under the Armenian legislation, an equalization reserve shall be created to cover all classes of insurance and when at least one of the conditions, as established under the law, exists. The Armenian legislation has not defined any of the 4 methods defined by the Directive for calculation of the equalization reserve.
20.	Does the Law contain a requirement for a solvency margin?	√			The Armenian legislation generally complies with the requirement of the EU Directive, with an only difference that the Directive provides for all reserves, mandatory and non-mandatory, of an insurance company, instead of a general reserve.
21.	In what manner the solvency margin is being deducted according to the Law?	√			
22.	Does the Law contain a requirement to create a guarantee fund? If yes, what are the constituents thereof and what will the extent of such a fund be?			√	There is difference in the terminology.
23.	Which are the grounds to operate an insurance company's activity license revoked? What is the procedure (if any) for giving notice about the decision on revocation of an activity license?			√	There is discrepancy in connection with the grounds for the withdrawal of the activity license, due to the current practice in Armenia.
24.	Will a company, whose solvency margin has gone down the threshold specified under the law, present a financial restoration plan to the		√		

	Central Bank for approval?				
25.	Does the Armenian law provide for a possibility of transfer of an insurance portfolio?	√			
26.	What are the terms and conditions for the transfer of an insurance portfolio?	√			
27.	Does the Law enable a foreign company to establish a branch office in the Republic of Armenia? What is the regime for arrangement?	√			The provisions of the Directive cover the arrangement for establishment of a branch office in the territory of the EU by a third country.
	TOTAL	27	22	1	4