



Central Bank of Armenia

**REPORT
COMPLIANCE EVALUATION**

**Directive 2002/92/EC of the European Parliament and of the Council of
9 December 2002 on insurance mediation**

December 2007

This report is designed to evaluate compliance of the insurance field, governed by the Armenian laws, with the requirements of the *Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation*.

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 regulations governing the issues in relation to insurance mediation comply with the requirements of the *Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation*.

1. Description of the EU Act

The common insurance market has a requirement that insurance intermediaries have an opportunity to freely evolve their business and provide services within the Community. On the EU level, the issues related to insurance mediation are governed under the *Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation*. The Directive has a goal to protect customer interests and enable insurance intermediaries to freely exercise their right of establishment and provision of services.

The Directive incorporates a number of core requirements to parties which are engaged in insurance mediation. Specifically, the Directive defines a stipulation of entry of intermediaries in the register of insurance intermediaries. The registration requires that insurance intermediaries meet professional requirements. Insurance intermediaries must hold a professional indemnity insurance against liability for loss should it be caused by them. Also, insurance intermediaries have to hold financial resources enough to deal directly with financial assets of customer. In view of protection of customer interests and rights, the Directive requires that, for each case of mediation, an intermediary duly provide the insured party with information, as provided for by law.

Underscoring the importance of protected interest of consumers, the Directive encourages member countries to introduce extrajudicial mechanisms for resolution of disputes in this field, such as the FIN-NET System¹ which is operational on the EU level.

In Armenia, the issues relating to insurance mediation are governed by the Armenian Law on Insurance and Insurance Activity (hereinafter referred to as ‘Law’)² and other prudential regulations enacted pursuant thereto. Specifically, one of those regulations is Regulation 3/01 ‘Licensing Insurance and Insurance mediation Activity; Procedure of Prior Consent for Qualifying Holding in Statutory Capital of Insurance Company; Submission of Business Plan of Insurance Company; Insurance and Insurance mediation Company Management and Qualification of Managers and List of Topics for Professional Qualification Examination’ (hereinafter referred to as ‘Regulation’).

2. Compliance evaluation

<i>Does the Law provide for an opportunity to evolve insurance and reinsurance mediation business?</i>
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Yes. The scope of regulation of the Law envisages the possibility to carry out insurance and reinsurance business in Armenia. Article 1 provides that the law regulates the relations arising out of undertaking and implementing of insurance, reinsurance and insurance mediation activities; establishment, licensing, operation and termination of operation of insurance companies, reinsurance companies and insurance intermediaries; supervision of insurance, reinsurance, insurance mediation activities; and other relations associated with insurance in the Republic of Armenia.

¹ The FIN-NET System is a network for resolution of disputes, which comprises extrajudicial systems for dispute resolution in the European economic area countries. The network was created in 2001 by the EU Commission and is responsible for resolution of disputes arisen out between financial institutions and customers.

² AL-177-N, 09/04/2007.

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

Does the Law provide for restrictions in insurance mediation specifying, particularly, the entities that having provided insurance mediation services are not being considered as insurance intermediary? If yes, what are the criteria under which a party is not considered as an insurance agent?

Yes, there is restriction like that. As provided by the Law, a party engaged in insurance agent's activities shall not be considered as an insurance agent if the insurance contract, which has been entered into by the request of that party, meets in the same time all the requirements, as follows:

1. insurance contract is not a life insurance contract or liability insurance contract;
2. activity of an insurance agent is not the main business of that party;
3. the amount of annual insurance premiums provided for by the insurance contract does not exceed the sum provided for by the prudential regulations of the Central Bank and the total duration of the insurance contract, including any renewals, does not exceed 5 years;
4. insurance contract is attached to the goods and services to be sold and/or offered by the provider, and it covers:
 - a. the risk of loss of, or damage to, the goods to be sold and/or offered;
 - b. the risk of loss of, or damage to, or other risks related to, the travel service booked with the given provider, even when life insurance or liability risk have been covered, provided that these are ancillary to the main risk related to the travel.

Evaluation: this provision ensues from the requirements of the EU Directive on 'Insurance Mediation' and has been explicitly reflected in the Law.

What types of insurance mediation are recognized in Armenia?

As prescribed by Article 87, insurance mediation in Armenia is carried out through the activities of:

- insurance agent;
- insurance brokerage³.

The Law provides for restrictions disallowing an insurance agent to engage in the same time in insurance brokerage, nor allows an insurance broker to perform insurance agent's activities, except when provided for by the law.

Evaluation: it should be noted that the Law does not provide the definition of a tied insurance intermediary⁴. However, the description of an insurance agent's activities, as is laid down in the Law, complies with the definition of an tied insurance broker, determined by the Directive.

Further, the Directive on 'Insurance mediation' establishes that tied insurance intermediary is also the party which, besides its main business, performs insurance brokerage under the liability

³ Article 3 of the Law clearly puts the definitions of insurance agent's activities, insurance brokerage activities, an insurance agent, and an insurance broker.

⁴ The directive provides that affiliated insurance broker is the party which performs insurance mediation [by classes of insurance which are not in competition with each other] on behalf of one or several insurance companies but which does not collect insurance premiums of other customer charges, which is the responsibility of the insurance company or companies on whose behalf it operates.

of one company or several others, provided that the insurance is attached as main business to goods and/or services it sells and/or offers.

<i>Are there professional or other requirements to insurance intermediaries?</i>
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Yes. Article 90 sets forth requirements to responsible persons of insurance intermediaries. Professional requirements refer to these responsible persons. Responsible persons of an insurance broker include executive director or chairman of executive board, members of board, chief accountant, deputy executive director, as well as a natural person entered in labour or any other civil relations with the insurance broker and carrying out brokerage activities. Responsible persons of an insurance agent include a member (members) of board, and a member of the executive body or of other body equivalent to it, which is responsible for the operations of the insurance agent and a natural person carrying out activities of an insurance agent.

According to the Law, responsible persons of an insurance intermediary can be a person who:

1. complies with the qualification and professional adequacy criteria set by the Central Bank;
2. has not quashed or expunged criminal record provided for by law for deliberate crime;
3. has not been deprived, by a court decision, of the right to hold positions in financial, insurance, banking, tax, customs, trade, economic, and legal fields;
4. has not been recognized bankrupt and does not have overdue (non-rebated) liabilities;
5. has not acted in the past in such a way which, according to the opinion of the Central Bank, gives grounds to doubt that the person concerned cannot, in his capacity as an official responsible for the insurance intermediary, duly manage the relevant sphere of the activity of the insurance intermediary or his actions may lead to the bankruptcy of insurance company or deterioration of the financial standing or compromise the professional and business reputation of the company;
6. is not involved in a criminal case as a suspect, accused or defendant.

Professional adequacy and qualification criteria for persons responsible for insurance company, as well as professional adequacy tests and qualification procedures are defined by the Central Bank. As laid down in a Central Bank procedure, the manager qualification examination shall be held at the Central Bank through an assessment in writing (tests) or an interview at a Board meeting of the Central Bank. Based on the results of the test and a positive conclusion of an examination committee, the examinee will be given a qualification certificate for a 3-year period. Managers of insurance intermediaries have to be registered at the Central Bank.

A candidacy for manager subject to registration shall have knowledge of laws and regulations pertaining to insurance and insurance mediation activities, and the business plan and internal policies and procedures of the insurance intermediary.

Below are the criteria which responsible persons of an insurance broker and insurance agent should comply with:

Officials of an insurance broker, including:	
1.1 executive director, chairman of executive board, member of board, deputy executive director	a) higher education and b) at least 3 years of operational experience, and c) qualification certificate issued from the Central Bank
1.2 chief accountant	a) higher education and b) 2 years of field operational experience, and c) qualification certificate issued from the Central Bank

1.3 natural person engaged as an insurance broker	qualification certificate issued from the Central Bank
Officials of an insurance agent, including:	
1.4 member of board and member of executive body or of other body equivalent to it, which are responsible for the operations of insurance agent	none
1.5 natural person engaged as an insurance agent	none

Note: a person with higher education is considered one having graduated any institute (college) of higher education in Armenia or abroad, or one having received a qualification certificate in the financial field in Armenia or internationally known establishment abroad.

So, the requirements of the Directive on ‘Insurance mediation’ are:

- insurance intermediaries should have relevant knowledge and capacities in order to carry out insurance brokerage;
- a candidacy for manager should not have formerly committed offence in criminal, financial, insurance, banking, tax, customs, commercial, economic, legal areas, and should not have been recognized bankrupt;
- insurance intermediaries should have good reputation.

Evaluation: the Law thoroughly complies with minimum requirements of the Directive in respect of insurance intermediaries’ professional knowledge and qualification, while establishing other requirements, not contradictory to the Directive.

Does the Law provide for a requirement for insurance intermediaries to hold professional indemnity insurance against the damage caused by them?

Yes, there is stipulation like that. Specifically, according to Article 90, to ensure compensation for damage caused due to professional negligence, insurance intermediary shall enter into a professional indemnity insurance contract on the following conditions:

1. the insurance event involves direct pecuniary loss caused to the policyholder, the insured person or beneficiary by insurance intermediary due to professional negligence,
2. the coverage for both one insurance event and the entire contract shall at least be equal to the minimum threshold set by prudential regulations of the Central Bank,
3. under an insurance contract, an insurance event is the damage caused by insurance intermediary during the period of the insurance contract signed through the request of insurance intermediary.

To ensure compensation for damage caused due to professional negligence of insurance intermediary, the contract of professional indemnity insurance shall provide for:

- an insurance coverage of at least AMD 100 mio per year for all insurance events, for an insurance brokerage company;
- AMD 2 mio for an insurance agent as legal entity;
- AMD 1 mio for an agent as natural person.

Note that the contract of professional indemnity insurance should have neither a stipulation of restriction in coverage per insurance event, nor geographical limits.

Evaluation: the Law complies with the requirements of the Directive with a difference that for ensuring compensation for damage caused due to professional negligence of insurance intermediary, the contract of professional indemnity insurance varies and is expressed in Euro.

Are issues relating to non-transfer by an intermediary of insurance premiums to an insurance company, and their legal consequence, regulated?

Yes, that has been reflected in the Law. This being the case, the EU Directive on ‘Insurance mediation’ provides for a number of vehicles for regulating this issue, enabling member countries to decide on the best variant⁵. Where an insurance intermediary acts as support to the execution of insurance and reinsurance contracts, including collection of premiums and transfer of compensations, to the extent permitted by the policyholder or company, it must adhere to the minimum statutory and total capital requirements as defined by the Central Bank prudential standards – in the capacity of insurance broker and insurance agent as legal entity, or to furnish an account [opened with any commercial bank operating in Armenia] with standing minimum residual guarantee amount as defined by the Central Bank prudential standards – in the capacity of insurance agent as natural person.

In the same time, the Law requires that an insurance intermediary use a separate settlement account opened with any Armenian commercial bank to maintain insurance premiums paid by the policyholder and owned by the insurance company as well as reinsurance premiums paid by the insurance company and owned by the reinsurance company. Insurance intermediary shall not have a right to use these funds for entrepreneurship and will only dispose them in order to return them to the owner insurance company. The above funds shall not be included in the liquidation property of the intermediary nor will creditor claims be satisfied out of those funds (except to the extent of insurance premiums as owned by companies).

Insurance intermediary must transfer to the insurer or reinsurer the insurance premiums paid to the intermediary by the policyholder against the insurance contracts or insurance policy within the terms specified in the contract or policy, or at longest within 30 days, if no term is specified.

Evaluation: the Law has decided on the two options under the Directive, which could be used as an alternative.

Does the Law provide for a requirement to register insurance intermediaries? Which body is responsible for registration?

Yes. The Law provides that for engagement in insurance mediation activity, insurance brokers are required to obtain an activity license from the Central Bank, while insurance agents need to be registered in the register of insurance agents.

⁵ The vehicles offered under the Directive against non-transfer of insurance premiums are:

- a) insertion of a provision in the law or contract whereby insurance premiums paid by a customer to an intermediary are considered as paid up to the insurance company, whereas payments to an intermediary by the insurance company are not considered as paid up to the customer unless that has been actually received by the customer;
- b) a stipulation that there should at any time be an amount of 4 percent of annual insurance premiums with an insurance intermediary, with such amount however not less than EUR 15000;
- c) a transfer of customer contributions through a strictly separate account on condition that the balances on such an account should not be used to meet creditor claims in case of bankruptcy;
- d) creation of a guarantee fund.

The Central Bank runs a register of insurance intermediaries and requires insurance and reinsurance companies to use only services of the intermediaries that are registered.

It is the Central Bank authorized to enter insurance broker and insurance agent in, and delete them, from the register. The Central Bank can delete insurance agent from the register without mediation of the company only when the insurance agent has violated the requirements of the law and other regulations pertaining to insurance activities. When deleting from registration, the Central Bank shall, within 3 business days, notify of this to the companies which that person acts as an agent for. The list of insurance intermediaries registered and data thereon shall be available on the Central Bank's website⁶.

As established by the Law, an insurance brokerage activity license shall be issued to a commercial organization. To obtain such license, commercial organizations shall submit documents and information to the Central Bank, as follows:

1. a letter of request;
2. an insurance liability contract of insurance broker;
3. information on the participants of the commercial organization;
4. the decision of the authorized body of the commercial organization on the appointment of officials of insurance broker;
5. statement about the activity of officials of insurance broker, samples of their certified signatures;
6. activity regulations of insurance broker
7. a statement on compliance of the premises of insurance broker with the Central Bank criteria;
8. information on persons having a qualifying holding in the capital of insurance broker as well as on their personal data and share of participation;
9. receipt for the payment of state duty;
10. other documents as provided for by prudential regulations of the Central Bank.

If the documents submitted meet the legislative requirements, the information contained therein is accurate and trustworthy and if there are not grounds for refusal to issue an activity license to insurance brokerage, as provided for by Law and prudential regulations of the Central Bank, the Board of the Central Bank shall then take a decision on issuing a license to the insurance brokerage company.

The Central Bank shall, within 5 business days upon the decision on issuing an activity license, enter the insurance broker's name, location, place of business, names of officials, and other information provided for by the Central Bank criteria, into the register of insurance intermediaries.

The Law also establishes grounds for refusal to issue an activity license. The Central Bank shall undertake to pass the activity license over to the insurance brokerage company within a 5-day period upon taking a relevant decision.

For entry in the register of insurance agents or amend the information available in the register, an insurance agent shall submit the following documents and information as provided for by prudential regulations of the Central Bank:

⁶ <http://www.cba.am>

- 1) for an applicant as legal entity:
 - a) an application for entry in the register;
 - b) the charter, the amendments thereto or a revised version of the charter;
 - c) a list of managers of the applicant, which covers also data about them;
 - d) a copy of the contract with insurance company on performing the functions of insurance agent, which shall specify which of the functions described in Paragraph 12 of Article 3 of the Law are entrusted to the insurance agent, for which classes of insurance, and in case of a function laid down in point c) of Paragraph 12⁷ of Article 3 also the sizes, permitted to the agent by insurance company, of collecting insurance premiums and transferring compensations;
 - e) documents certifying the availability of professional indemnity insurance;
 - f) statement of managers on the absence of grounds set forth by Paragraph 3⁸ of Article 90;
 - g) other information as provided for by prudential regulations of the Central Bank, specifically, the legal entity's management decision or an excerpt from the minutes on performance of functions by an insurance agent and a duly issued letter of attorney, if applicant acts through an authorized representative;

- 2) for an applicant as individual entrepreneur:
 - a) an application for entry in the register;
 - b) information on managers which are in working relations with the entrepreneur-agent;
 - c) a copy of the contract with insurance company on performing functions of entrepreneur-agent, which shall specify which of the functions laid down in Paragraph 12 of Article 3 are permitted to the insurance agent, for which classes of insurance, and in case of a function laid down in point c) of Paragraph 12 of Article 3 also the sizes, permitted to the agent by insurance company, of collecting insurance premiums and transferring compensations;
 - d) statement on the absence of grounds, set forth by Paragraph 3 of Article 90, of managers which are in working relations with the entrepreneur and the entrepreneur-agent;
 - e) documents certifying the availability of professional indemnity insurance;
 - f) other information as provided for by prudential regulations of the Central Bank.

⁷ Insurance brokerage activity – a carrying out by a third party of organizational measures, both actual and legal, which enable, promote and support the establishment of insurance relations [and the signing of an insurance contract] between the insures (reinsurers) and the policyholders. Specifically, these involve actions that:

- a) prepare for the conclusion of insurance and reinsurance contracts, including consultation;
- b) arrange the conclusion of insurance and reinsurance contracts with policyholders;
- c) assist in the administration and performance of insurance and reinsurance contracts, including the collection of insurance premiums and transfer of compensations in the amount authorized by the policyholder or company.

⁸ An official of an insurance broker may serve a person, who:

- 1) complies with the Central Bank criteria for professional adequacy and qualification;
- 2) has not quashed or expunged criminal record provided for by law for deliberate crime;
- 3) has not been deprived, by a court decision, of the right to hold positions in financial, insurance, banking, tax, customs, trade, economic, and legal fields;
- 4) has not been recognized bankrupt and does not have overdue non-rebated liabilities;
- 5) has not acted in the past in such a way which, according to the opinion of the Central Bank, gives grounds to doubt that the person concerned cannot, in his capacity as a responsible person of insurance intermediary, duly manage the relevant sphere of the activity of the insurance intermediary or his actions may lead to the bankruptcy of insurance company or deterioration of the financial standing or compromise the professional and business reputation of the company;
- 6) is not involved in a criminal case as a suspect, accused or defendant.

An insurance agent (as legal entity or natural person) shall provide the Central Bank with a document, duly issued from an insurance company it will be dealing with, stating that the insurance company concerned has undertaken commitment to compensate the loss caused by the insurance agent due to its professional negligence. Where no commitment to compensate such a loss is undertaken by insurance company, a copy of the contract of liability insurance shall be presented within 10 days upon registration in the register of insurance agents.

The Central Bank shall make a decision on entering an insurance agent in the register, if the documents and information submitted are in compliance with the Law, other laws and regulations, the information contained therein is accurate and trustworthy and there are no grounds for refusal, set forth by the Law, for entering the insurance agent in the register.

The Central Bank shall make a decision about insurance agent's entry in register or refusal to enter in register within 10 business days after receiving the information and documents as provided for by law. A certificate of registration will be issued to the insurance agent by the Central Bank within 3 business days after making a relevant decision on registration.

The Central Bank shall, within 2 business days after a decision on entry in the register, enter the name, registration number, address and the place of operation of the insurance agent in the register of insurance agents, as well as the name of the managers responsible for mediation and information on natural persons performing functions of insurance agent.

The Law authorizes the Central Bank to delete an insurance agent from the register or make amendments to the information on the insurance agent recorded in the register, if:

1. insurance agent has submitted to the Central Bank an application about its removal from the register;
2. legal entity - insurance agent has been dissolved or entrepreneur - insurance agent has died;
3. the insurance contract between insurance company and insurance agent has terminated;
4. insurance agent has no documents certifying professional indemnity insurance;
5. the grounds for refusing to enter insurance agent in the register have been identified;
6. insurance agent or insurance agent's manager has violated the requirements as to mediation of insurance contracts;
7. insurance agent has violated the Law and other regulations or the interests and legitimate rights of the policyholders, insured persons or beneficiaries are not sufficiently guaranteed from the risks arising out of the activities or negligence of insurance agent;
8. insurance agent has not followed the instruction of the Central Bank.

In case of identifying the said circumstances, an insurance company shall notify the Central Bank of these within 2 business days. Having received or identified the information, the Central Bank shall, within 10 working days, make a decision to delete insurance agent from the register or amend the information on insurance agent. The Central Bank shall, within 3 business days upon a decision on deleting insurance agent from the register, notify the insurance agent thereon.

Evaluation: the Law complies with the requirements of the Directive. The Law establishes a procedure for registration; the Central Bank is considered the authority responsible for registration.

<i>Does the Law enable carrying out insurance mediation activities abroad, through a branch office?</i>

Yes, the Law allows resident insurance intermediaries to establish a branch office or representation both in Armenia and abroad by receiving permission of the Central Bank. To receive permission, an insurance brokerage company shall present documents to the Central Bank, as follows:

1. a letter of request for permission to establish a branch office or representation of an insurance broker company;
2. an insurance broker company's decision or an excerpts from minutes of governing body on establishing a branch office or representation;
3. rationale for establishing a branch office or representation;
4. charter of a branch office (in 3 copies);
5. a reference on activities of officials of a branch office;
6. an insurance broker company's decision or an excerpts from minutes of governing body on appointment or assignment of officials of the branch office;
7. a copy of state registration certificate for ownership, lease, sublease or free use of the premises of a branch or representation – if established in the Republic of Armenia; in case of sublease, the copy of the master lease contract will be required to submit;
8. if an applicant appears through an authorized representative, the letter of authorization, duly issued by the applicant, will be required to submit.

The Central Bank shall decide to permit an insurance broker to establish a branch office or representation in Armenia or abroad, if the documents and information presented comply with the Central Bank policies, other laws and regulations; contain accurate and trustworthy data; and have no grounds for refusal to permission by the Central Bank to establish a branch office or representation in Armenia or abroad.

The Board of the Central Bank shall refuse permitting an insurance brokerage company to establish branch offices or representations in and outside Armenia, if:

1. false or inaccurate documents have been submitted or these document contain unreliable or artificial data; and/or
2. the Central Bank believes that in case of establishment of a branch office or representation outside Armenia, the authority responsible for the supervision of the insurance sector in the foreign country does not exercise supervision over the activities of insurance companies registered in the given country in accordance with international standards and in a proper way, or the country concerned does not allow the Central Bank to undertake a proper inspection or supervision of the branch or the representative office to be established; and/or
3. in case of establishment of a branch office or representation outside Armenia, an insurance brokerage company fails to substantiate the need for a branch or representative office or, according to the opinion of the Board of the Central Bank, it plans to circulate illicit proceeds or support the circulation thereof.

The Board of the Central Bank shall issue permission for establishment of a branch office or representation of an insurance broker company in and outside Armenia, or it shall decline the letter of request, within 30 days upon submission of the letter to the Central Bank. The 30-day period may be suspended for not more than 30 days in order for the Central Bank to get certain information.

An insurance brokerage company shall, within 10 days after the registration (licensing) of a branch office or representation outside the Republic of Armenia in accordance with the procedure stipulated by the legislation of the given foreign country, register that branch office or representation with the Central Bank by submitting a document certifying its registration

(licensing).

The Central Bank shall, within 5 days following the registration of a branch office or representation of insurance company established outside the Republic of Armenia, notify the state authorized body for registration of legal entities in view of making a relevant record on the registration of that branch office or representation.

To seek the Central Bank's permission for establishment of a branch office or representation in and outside Armenia, an insurance agent shall submit documents to the Central Bank, as follows:

1. a letter of request for permission to establish a branch office or representation;
2. the decision, or a relevant excerpt from such a decision, made by an insurance agent's authorized body;
3. the list of officials of the branch office that includes data about such officials and sample signatures thereof;
4. where an applicant appears through an authorized representative – a letter of attorney duly issued by the applicant.

The Central Bank shall deliver a decision on issuing permission for the establishment of a branch and/or representative office of insurance company outside Armenia, provided that the documents and information submitted comply with the Central Bank criteria, other laws and regulations, the information contained therein is accurate and trustworthy, and there are no grounds provided for by prudential regulations of the Central Bank for refusal to permission for the establishment of a branch or representative office outside Armenia.

The Board of the Central Bank shall refuse permitting an insurance agent to establish branch offices or representations in and outside Armenia, if:

1. false or inaccurate documents have been submitted or these document contain unreliable or artificial data; and/or
2. the Central Bank believes that in case of establishment of a branch office or representation outside Armenia, the authority responsible for the supervision of the insurance sector in the foreign country does not exercise supervision over the activities of the branch office of representation of the insurance agent, registered in the given country in accordance with international standards and in a proper way, or the country concerned does not allow the Central Bank to undertake a proper inspection or supervision of the branch or the representative office to be established; and/or
3. in case of establishment of a branch office or representation outside Armenia, an insurance agent has plans, according to the opinion of the Board of the Central Bank, to circulate illicit proceeds or support the circulation thereof.

The Board of the Central Bank shall issue permission for establishment of a branch office or representation of an insurance agent in and outside Armenia, or it shall decline the letter of request, within 30 days upon presentment of the letter to the Central Bank. If the Central Bank makes no decision within the abovementioned timeframe on permitting the insurance agent to establish a branch office or representation in and outside Armenia, such permission shall be deemed as issued.

An insurance agent shall, within 10 days after the registration (licensing) of a branch office or representation outside the Republic of Armenia in accordance with the procedure stipulated by the legislation of the given foreign country, register that branch office or representation with the Central Bank by submitting a document certifying its registration (licensing).

It shall be noted that, in view of intermediary activities carried out both through branch offices or directly, the Directive provides for the requirements that are applicable solely to the EU member countries. Specifically, in order for an insurance intermediary incorporated in an EU member country to establish a branch office or a cross-border insurance mediation business in another member country, it will just notify the authorized body of home country of this. The authorized body shall, within a month period upon notification, give notice to the authorized body of the country where that branch office is to be established in. An insurance intermediary can engage in mediation business one month after the authorized body has been advised of the insurance intermediary's intention.

Evaluation: the Armenian legislation also allows resident insurance intermediaries to establish branch offices or representation in and outside Armenia; the companies that wish to establish branches should meet the requirements as provided for by law.

<i>Does the Law provide for sanctions enforceable to insurance intermediaries? What those sanctions are?</i>
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Yes, the Law contains provisions pertaining to imposition of sanctions to the supervised entities, including insurance intermediaries.

The Law first of all lays down a general rule whereby managers or officials of the supervised entities, when fulfilling their obligations, shall undertake to operate based on the interests of the supervised entities, exercise their rights and fulfill their obligations towards the supervised entity in a careful and prudent manner.

Managers or officials of the supervised entities shall bear responsibility toward the supervised for the legal damage caused to the supervised entity as a result of their intentional activities (omissions) according to the legislation of the Republic of Armenia. If the damage was caused by more than one manager of the supervised entity or officials thereof, they shall carry a joint liability toward the supervised entity. Managers of the supervised entity or officials thereof, who voted against the decision on the damage caused to the supervised or did not take part in the meeting, shall be released from the responsibility for the damage caused to the supervised. The responsibility of a manager of the supervised entity or officials thereof shall include, but not be limited to, the following possible cases:

- the executive director of the supervised entity shall be responsible for compensating the actual damages caused to the supervised entity as a result of insurance obligations undertaken by violation of prudential regulations on the maximum volume of one insurance risk, large risk, or other transactions and if a board decision is required by law for entering into such transaction, the members of the board and the executive director shall be responsible therefor;

- the members of the executive body shall also compensate for the damages caused to the supervised entity as a result of transactions made by violation of internal regulations adopted by the board of the supervised entity;

- if the reports submitted to the board of the supervised entity reveal violations of laws, other prudential regulations and internal policies and procedures of the supervised entity and in the past the supervised entity has had losses due to the same violations, the members of the board shall be liable for compensating those actual damages, except for cases, when the member of the board has, in his capacity, initiated sufficient and prudent actions for preventing those violations;

- if the information on violations of laws and other prudential regulations revealed during the examination of the internal audit have not been submitted to the board, and later the supervised entity has had losses due to those violations, the internal auditor shall compensate for those damages.

Where violations of the Law and other regulations are identified, the Central Bank may, within 1 year after the detection of the violation, impose sanctions on the supervised entity or manager thereof, as follows:

- warning and instruction to remedy violations or warning and instruction not to recur to the violation in the future or warning and instruction of taking measures aimed at further prevention of such violation,
- fine,
- depriving the manager or official of the supervised entity of the qualification certificate,
- revocation of an activity license.

The imposition of the sanctions specified in this Article shall not release the supervised entity and the managers or officials thereof from the liability set forth by laws and other regulations or contracts.

For each violation of laws or other regulations, the Central Bank may simultaneously issue a warning to the supervised entity and/or the manager of the supervised party or official thereof together with an instruction to remedy the violation or a warning together with an instruction not to recur to the violation in the future or a warning together with an instruction to take measures aimed at further prevention of the violation and/or fine the supervised entity or the manager or official thereof, and/or deprive the manager of the supervised entity or official thereof, of the qualification certificate.

The depriving the manager of the supervised entity or official thereof from a qualification certificate as a punitive measure is particularly worthwhile to mention. As provided for by the Law, the Central Bank may decide to deprive the supervised entity or officials thereof from the qualification certificate, if they:

- 1) have deliberately violated the laws or other regulations;
- 2) have committed an action or permitted an omission which has damaged or can damage the rights or interests of the supervised entity, the policyholders, the insured persons or beneficiaries;
- 3) have impeded the actions of the Central Bank or its employees in regard to conducting supervision;
- 4) have undertaken actions, as a result of which the supervised entities have incurred or could incur considerable financial or other loss;
- 5) have undertaken actions or permitted omissions arising out of personal interests, which contradict the rights or interests of the supervised entities, the policyholders, the insured persons and beneficiaries;
- 6) have not been fair and careful in respect of their official obligations;
- 7) do not meet the qualification or professional adequacy standards for managers or officials of the supervised entity, as stipulated by prudential regulations of the Central Bank;
- 8) have not followed the duly issued instruction of the Central Bank.

For enhanced transparency, the Central Bank must place each decision on the imposition of sanction over the supervised entity, its manager or official onto its website. Any decision on imposition of sanction can be appealed by the supervised entity judicially.

The Directive *Insurance Intermediaries* requires that:

- member countries provide for sanctions under law to insurance intermediaries not explicitly specifying the types of punitive measures. *So, one may affirm that the Armenian legislation has that requirement fixed whereby the legislature should provide for sanctions against violations of law by an insurance intermediary;*
- a sanction be applied to insurance or reinsurance companies that used the services of intermediaries not registered with the registry of insurance intermediaries. So, because the Law requires insurance companies to use only the services of registered companies, the infringement of this requirement will prompt an imposition of sanctions.

Evaluation: a conclusion can be reached the Law thoroughly complies with the Directive as to requirements to sanctions.

Does the Law call an insurance intermediary for an obligation to provide information to the customer before entering into a contract?

Yes, the Law provides for an obligation like that. Specifically, according to Articles 95 and 102 of the Law, an insurance brokerage company and insurance agent must duly provide information to the customer before entering into an insurance contract or making amendments to the contract in effect. Specifically, an insurance brokerage company shall:

- 1) inform the customer of the address, telephone numbers and website address thereof;
- 2) inform the customer of the right to carry out the activity established under the Law and notify that he has entered in the register of insurance brokers;
- 3) inform the customer of any insurance company in which the insurance broker has a qualifying holding and of any insurance company or a parent undertaking of insurance company which has a qualifying holding in the capital of the insurance broker;
- 4) inform the customer of conditions of insurance types, classes and subclasses offered by insurance companies;
- 5) offer an insurance contract which meets the requirements of the customer and justify the offer;
- 6) introduce, in writing or verbatim, the customer to all conditions of the insurance contract to be entered into, particularly the size of insurance premiums and the restrictions relating to the contract, and other conditions;
- 7) introduce, in writing or verbatim, the customer to the principles and conditions of compensation upon the occurrence of the insurance event;
- 8) inform the customer of the right to demand that the insurance broker discloses the amount of the brokerage fee charged for the mediated insurance contract;
- 9) verify the content of the insurance policy;
- 10) if necessary or upon the request of the policyholder, assess the compliance of prudential standards of insurance company with the requirements of the Law;
- 11) advise the policyholder on issues relating to the insurance contract;
- 12) meet the requirements provided for by prudential regulations of the Central Bank.

An insurance agent shall provide information, as follows:

- 1) inform the customer of his address and phone number;
- 2) inform the customer that he acts as an insurance agent and make a reference to the register of insurance agents where he is enlisted, as well as inform of the right of the policyholder to check the entry made in the register;
- 3) inform the customer of the insurance company/companies that the agent represents the classes

- of insurance for which the insurance company/companies has/have issued an authorization to carry out insurance mediation;
- 4) offer the customer to enter into an insurance contract;
 - 5) introduce the customer to all conditions of the insurance contract, particularly the size of the insurance premiums, the restrictions and other conditions;
 - 6) inform the customer of the terms and procedures for insurance compensation upon the occurrence of an insurance event;
 - 7) meet other requirements as provided for by prudential regulations of the Central Bank.

Evaluation: the Law meets the requirement to provision of information as established under the Directive. What is more, having studied and applied international experience and pursuing the need to defend customer interests, other coverage of information as well, which the intermediaries shall provide to the customers, has been envisaged under the Law.

Does the Law provide for extrajudicial mechanisms for dispute resolution? If so, what mechanisms?

According to the Constitution of the Republic of Armenia, which was adopted on July 5, 1995, every person has the right to legal defense. The Directive however requires that extrajudicial mechanisms for dispute resolution between insurers and customer be established in addition to courts that a country has. At present, the Central Bank is drafting a law on financial ombudsman aimed at protecting rights and interests, fast and effective and free of charge review of claims of customers; raising public confidence in the financial system; and deepening of financial mediation.

3. Conclusion

The requirements of the *Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation* can be reflected in the following aspects:

- a) Entry of insurance intermediaries into the registry;
- b) Specialty requirements to insurance intermediaries;
- c) Liability insurance being mandatory to insurance intermediaries;
- d) Enabling insurers to provide services through a branch office in another country;
- e) Imposition of sanction to insurance intermediaries;
- f) Mandatory provision of information to the customer by insurance intermediaries;
- g) Availability of extrajudicial mechanisms for review of claims.

The Armenian Law on Insurance and Insurance Activity and other regulations adopted pursuant thereto comply with the requirements of the EU Directive, with an exception that the Law does not provide for the definition of an affiliated insurance intermediary. Nevertheless, the description of an insurance agent contains elements typical to the affiliated insurance intermediary. Also, measures designed to institutionalize the financial ombudsman are underway.

Appendix

<i>Question</i>	<i>Yes</i>	<i>No</i>	<i>Notes</i>
Does the Law provide for an opportunity to evolve insurance and reinsurance mediation business?	√		
Does the Law provide for restrictions in insurance mediation specifying, particularly, the entities which provide insurance mediation services yet not being considered as insurance intermediary? If yes, what are the criteria under which a party is not considered an insurance agent?	√		
What types of insurance mediation are recognized in Armenia?			As is the case in international practice, in Armenia too, insurance mediation is carried out through insurance agents and insurance brokers.
Are there professional or other requirements to insurance intermediaries?	√		
Does the Law provide for a stipulation that insurance intermediaries offer liability insurance against the damage caused by them?	√		
Are issues relating to non-transfer by an intermediary of insurance premiums to an insurance company, and their legal consequence, regulated?	√		
Does the Law provide for a requirement to register insurance intermediaries? Which body is responsible for registration?	√		
Does the Law enable carrying out insurance mediation activities abroad, through a branch office?	√		
Does the Law provide for sanctions enforceable to insurance intermediaries? What those sanctions are?	√		
Does the Law call an insurance intermediary for an obligation to provide information to the customer before entering into a contract?	√		
Does the Law provide for extrajudicial mechanisms for dispute resolution? If so, what mechanisms?		√	The Armenian Law on Insurance and Insurance Activity does not

			provide for an explicit opportunity to using extrajudicial mechanisms for dispute resolution, nevertheless the Central Bank has drafted a law on financial ombudsman in order to institutionalize the field in Armenia.
Total	10	1	