German insurance market as an example of financial sustainability

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Introduction

German insurance market is considered by many international experts as one of the most sustainable markets in European Union in recent years. The latest world financial crisis proved this fact. German insurance market came through this crisis without any global system problems.

This sustainability bases on two main grounds, mentioned below. The first one – is the long history of the market. This history is not an example of instant successful development, but there are some facts, that prove the power of the industry.

The second ground of sustainability of German insurance market is the government regulation of the industry. In general the government regulation was traditionally rather strict in the insurance field in Germany.

In terms of creating new common insurance legal system on the whole European economic area the German insurance market is considered as one of the most sustainable industries.

1. The state of the German Insurance market.

1.1 The history of insurance market in Germany

The private insurance business in Germany has its origins in three different lines: mutual firms (something between public and commercial insurance firms), public, and commercial insurance companies. The first so called mutual firms were organized during the sixteenth century, and they typically provided fire insurance to members of specific groups such as guild members (called Brandgilderi) [1].

However, these first insurance agreements consisting of the mutual guarantees to support each other in case of an accident or a catastrophe differ significantly from today's insurance practice. Germany was not the pioneer in this field. The beginning of the modern, profit-oriented insurance industry in Europe dates back to the 14th century and has its roots in the Mediterranean countries as well as England and the Netherlands.

The essential difference to the ancient predecessors of the insurance was the fact that, for the first time, insurance premiums to be paid in advance were included in the contracts. The first arrangements of this nature are documented for the insurance of Italian ships in the second half of the 14th century. In the years following, this "innovation" made its way to England, Spain, the Netherlands and finally to Germany [3].

The fire insurance was the most needed that time because of high level of damage caused by fire to different producers of goods. In 1821 the Gothaer Feuerversicherungsbank and in 1827 the Gothaer Lebensversicherungsbank were founded by Ernst Wilhelm Amoldi. These two mentioned above companies were organized as mutuals (mutual firms). Following these examples, many mutuals were created in all insurance lines during the second half of the nineteenth century.

The first public insurer in Germany, the Hamburger General-Feuercasse, was formed as a merger of many Brandgilden in 1676. Following this example, other public insurers providing fire insurance to homeowners were formed in nearly all other German states during the eighteenth and nineteenth centuries. Many citizens were often required by the authorities to insure their property. Traditionally the

German insurance market is strictly regulated by many laws. The government often kept an eye on the industry.

After this period, public insurers also started to offer coverage in other lines of the private insurance market. The first commercial (i.e., profit-seeking) insurers were sea transport insurers, created in 1765 and headquartered in Hamburg and Berlin.

It was only in the mid-eighteenth century that the first commercial life insurer was created in Germany. Not only the demand on insurers services impacts the evolution of the German insurance market. One of the major factors in the development of the life insurance industry was discoveries in mathematics, particularly in probability theory.

Many insurance companies used expert judgments for founding the ways of developing their business. The German mathematician Carl-Friedrich Gauss (1777-1865), for example, consulted a life insurer in Gottingen on premium calculations for life annuities, where he already used statistical data for death probabilities based on age (Gauss, 1973).

In the first half of the nineteenth century, commercial insurers were mostly active in three market segments: transport insurance, fire insurance, and life insurance. The nineteenth century also marked the beginning of the formation of large insurance stock companies.

In 1818 the Agrippina insurance company was created (presently the Zurich-Agrippina), and in 1890 the Allianz VersicherungsGesellschaft, that occupies nowadays the first place in the list of most big insurers companies in European Union.

A catastrophic fire in Hamburg in 1842 destroyed almost the entire city center. This led to the creation of reinsurance companies, the first being the Kolnische Riickversicherungsgesellschaft in 1846, followed by the Munchener Ruckversicherungsgesellschaft in 1880.

The industrialization and the increase of the living standards of major parts of the society led to the fact, that more and more people had "something to lose" and therefore also had something that needed to be insured.

Insurance contracts were no longer a privilege of the upper class, but a "product for everyone". These services became more and more popular among all population groups by average income.

However, the "final breakthrough" for the German insurance industry came with the first social legislation in the year 1881. The introduction of a public medical insurance in 1883, a public accident insurance in 1884 and a sort of public pension insurance in 1889 did not imply a substitution of private by public insurance institutions, but helped to further spread the idea of insurance within the society, a development of which the private insurance industry profited significantly [3].

The years between 1850 and 1900 must be considered as the period, in which almost all of the major product innovations were introduced into the German casualty and property insurance market, as can be seen in the following table.

Table 1. Year of the introduction of different product innovations in the German insurance industry

The year of the introduction	**Class of insurance by risks**
1719	Hailstorm
1765	Animal death
1853	Accident
1886	Water
1895	Burglary/theft
The year of the introduction	**Class of insurance by insurance objects**
1874	Personal liability
1898	Credit/loan
1899	Car
1900	Machine/technology

In other words General economic growth and the rapid development of industrial manufacturing led to an increased demand for insurance coverage. Before World War I, there were 962 life insurers, 48 property and casualty insurers, and 101 fire and building insurers in Germany [1].

New insurance branches appeared, such as insurance against theft, credit insurance, insurance against air traffic risks, and automobile insurance. After World War I, the destruction of German industry and the confiscation of assets owned by German insurers in coalition countries combined with high inflation dealt a severe blow to the insurance industry [1].

But the real sustainability is not concerned as a story of permanent success. The ability to make good anticrisis decisions characterizes the members of government and of company's boards in insurance industry in German. The First World War caused a first major crisis of the German insurance industry.

The total international business of the reinsurance and the transport insurance collapsed. The life and accident insurance companies first invested major parts of their capital into the so-called "Kriegsanleihen", war bonds issued by the government [3].

Moreover, they had to pay enormous sums due to war casualties, which had been excluded from the insurance contracts before the war, but finally were reintroduced due to public pressure. Those companies surviving the war were hit by the next fundamental shock, the famous period of inflation in the twenties in Germany.

At the beginning of the 20s, the insurance market experienced an enormous increase caused by the enormous surplus money created during the inflation. Many new insurance companies arose and even firms from the manufacturing industry decided to found own banks and insurance companies [3].

However, only few of them were able to overcome the final devaluation of the money. Without necessary experience many companies from different fields of economy created insurance subsidiaries, because it could be a very profitable business.

To improve the situation on the market in such difficult times the government made a reform. This currency reform in 1924 left many companies on the brink of bankruptcy, and the number of life insurers was reduced to 691 companies [1].

Thus, this period experienced the most dramatic consolidation in the history of the German insurance industry. The third fundamental exogenous shock in the first half of the 20th century was, of course, the regime of the National Socialists respectively the Second World War.

In the thirties, the government tried to centralize the insurance market and forced lots of small companies to merge. The Second World War deleted not only the capital reserves of the insurance companies, but also their administrations [3].

The medical and life insurance companies again had to pay enormous sums and the car insurance industry completely collapsed due to the destruction of the public infrastructure. The total insurance market of the Eastern regions was withdrawn after 1945, so that lots of insurance companies moved to the west.

It was cruel time for small and average businesses. But German government and the most experienced heads of companies continued to improve the situation.

As a consequence, just as the whole German economy, the insurance industry soon recovered from this catastrophe and experienced a period of steady and continuous growth after 1950.

In fact while the development of this sector of economy was significantly influenced by fundamental exogenous shocks in the first half of the 20th century, in the last 50 years only two events need to be mentioned: the German reunification in 1990 and the deregulation of the European insurance market in 1994.

The effects of both of these exogenous changes are not comparable to the effects of the crises before the Second World War. The German reunification more or less only led to a single increase in the insurance volume of Germany, which was almost totally captured by the major existing players in the market.

Certainly this process was not as easy as it sounds to be. The reunification of the Germany caused some problems in many economic industries. The German insurance industry was based on the principles of the west part of Germany because of its relatively new technologies and rich experience.

The European deregulation was first believed to motivate international companies to enter the German insurance market. However, the major effect in the reality was the beginning of a price war between the existing companies, as the insurance offerings no longer had to be approved by the public authorities [3].

Moreover, the 20th century, in general, and the last 50 years, in particular, did not experience the same amount of fundamental product innovations as the 19th century. The major trends of this last epoch of the insurance industry were:

- the diversification of the product portfolios of existing companies;
- the introduction of product modifications such as:
- the combination of several classes of insurance in one contract;
- the adjustment of the insurance premiums to the individual needs of the customers.

The global insurance industry experienced a significant growth in the 20th century. The number of insurance companies increased from about 1.300 in the year 1900 to more than 14.000 in 2003. More than a third of the companies are located in Europe.

The growth of the number of insurers was about 1077%. It is also interesting to site, that the German insurance market of the year 1999 comprised approximately 2.000 companies.

The number of insurance companies in Germany increased significantly between 1870 and the mid-twenties, before it was heavily reduced during a market shakeout between 1926 and 1949. From 1950 to the mid-nineties, the population showed a continuous density growth. [3].

The vast majority of fundamental market innovations were generated between 1850 and 1900, whereas the innovation activities in the time after the World War II were dominated by product modifications and internal product innovations [3].

1.2 The state of German insurance market and its main factors

As in other countries with developed insurance markets, German insurers offer a wide range of products in various lines. The most important direct lines are life, property and casualty, and private health insurance. All insurance companies were under the supervision of the German supervisory body from the reunification of Germany in 1990 till the time another supervisory body appeared.

In 2010 were made 452 million insurance contracts in Germany. About 21% of them were made in the life insurance field. In 2010 were made 93.4 million life assurance contracts by German insurers [6].

Life insurance is one of the most important types of insurance in German. The growth in single premium contracts in life assurance in 2009 and 2010 was particularly strong, in view of the crisis, resulting in relatively strong growth in overall premium revenues as well.

Premium revenues in the German insurance industry are expected to decrease slightly in 2011, but this decrease can be ascribed entirely to a normalization in the single premium business in life assurance, which had previously been extraordinarily fast-growing, i.e. to a decline in new business.

Overall premium revenues in the insurance industry are expected to decrease by 1.2 per cent in 2011, to over 176 billion EUR, after premium revenues grew by 4.2 per cent in 2009 and by 4.4 per cent in 2010. Premium revenues should increase slightly once again in 2012, provided general economic conditions do not worsen excessively [6].

Insurance benefits paid by direct insurers are expected to increase by 7 per cent in 2011, to just over 147 billion EUR. The increasing number of routine expirations of life assurance contracts concluded in the previous years and decades, the increase in health care costs which has taken effect in private health insurance and rising claims expenditures in casualty, property and accident insurance have all contributed to this trend.

Gross premiums written in the first half of 2011 for life assurance, Pensionskassen and pension funds combined were around 41.7 billion EUR, down from 45.2 billion EUR in the first half of 2010. Life assurance in the narrow sense accounted for 40.1 billion EUR of this amount, down from 43.8 billion EUR in the first half of 2010. The decrease in premium revenues is entirely attributable to the development of single premium contracts. For 2011 as a whole, Germans are expected to spend 81.6 billion EUR in premiums (estimate; year before: 87.2 billion EUR) on life assurance in the narrow sense, with another 3.7 (year before: 3.2) billion EUR on Pensionskassen and pension funds [6].

The insurance portfolio in life assurance in the narrow sense is expected to total 89.6 million primary contracts at the end of 2011, which would be down slightly from the year before. The insurance portfolio for Pensionskassen and pension funds is expected to grow, however, so that a total of 93.4 million contracts should be reached.

2.9 million new life assurance, Pensionskassen and pension fund contracts were concluded in the first half of 2011, for an insured amount of 125 billion EUR. Accordingly, the number of new contracts fell slightly, by 1.9 per cent, but the insured amount increased sharply, by 5.5 per cent. Projections indicate that around 6.0 million new contracts will be concluded in 2011 in life assurance (down 1 per cent), while new business for Pensionskassen and pension funds is expected to amount to 0.2 million contracts.

Total premiums from new business (valuation) for life assurance, Pensionskassen and pension funds amounted to 73.6 billion EUR in the first half of 2011, 2.5 per cent lower than the year before (75.5 billion EUR). In the case of new contracts with periodic premiums, this figure includes total premiums paid over the entire term of the policy and, for contracts with single premiums, it includes the single premium.

It is therefore a measure of sales performance while also showing the willingness of customers to commit to long-term life assurance contracts. Single premiums from new business in the first half of 2011 reached 10.7 billion EUR (down 26.0 per cent), and were primarily associated with private annuity insurance contracts.

In addition to the reinvestment of maturity benefits and temporary deposit account balances, the Riester assistance, flexible funding options for existing contracts and occupational pensions have also contributed to the growing importance of single premiums. Periodic premiums therefore amounted to 62.9 billion EUR (up 3.1 per cent). Total premiums from new business are expected to reach 163.5 billion EUR for 2011 as a whole (up 0.5 per cent).

Concerning the private health insurance, the total number of persons with full health insurance coverage increased to a total of 8.95 million on 30 June 2011. Net new business in the first half of 2011 was 54 000 persons, more than 20 per cent higher than in the first half of 2010 (44 500 persons). This clear improvement is attributable above all to the fact that the CDU/CSU and FDP government abolished the 3-year waiting period for employees seeking to switch to PHI. However, the extraordinary increase in the compulsory insurance limit in 2003 continues to have a negative impact on the industry.

The number of supplementary contracts is up even more relative to the year before. Until mid-year, a net total of 118 700 new contracts had been concluded, much higher than the 77 000 new supplementary contracts which were concluded the year before. This raises the total number of contracts to 22.1 million (30 June 2010: 21.6 million). The sector's innovative products and the appeals from consumer advocates in favor of reliable PHI products rather than supplementary statutory benefits, which can be discontinued at any time, appear to be having an effect.

The number of new private endowment insurance contracts decreased to 262 600 in the first half of 2011 (down 0.9 per cent) and the insured amount decreased by 5.7 per cent, to 5.5 billion EUR. Private endowment insurance contracts accounted for 9.2 per cent of new business in terms of the total number of contracts, and 4.4 per cent of the insured amount. About 192 100 occupational disability insurance contracts were concluded in the first half of the year, up 9.9 per cent, and the insured amount increased to 28.8 billion EUR (up 13.5 per cent).

All in all, casualty, property and accident insurers can afford to be somewhat more optimistic about the future, as premium revenues are growing and all indications are that claims expenditures will increase only slightly. The market-wide combined ratio (claims/expense ratio after settlement) should improve by about 1 per cent in 2011, to around 97 per cent. This would mean that net actuarial profit would grow for the first time in two years, from around 0.9 billion EUR to around 1.5 billion EUR.

The turnaround in motor insurance premium revenues is now complete. Sub-annual figures indicate that average premiums should increase by about 1-2 per cent in 2011. All indications are that this, together with the growth in the total number of contracts, will cause premium revenue volume in motor insurance to increase by 3.5 per cent, to around 20.9 billion EUR.

Outstanding type of insurance is property insurance. The third quarter of 2011 was characterized by bad summer weather events. The effect of these events on the number and amount of claims can currently not be definitively estimated. Based on the known data, 2011 business trends for property insurance can be estimated as follows:

Property insurance overall: Premium revenues are expected to increase by about 1.7 per cent to 15.4 billion EUR. Taking the figures for the first half into account, a practically unchanged level of claims can be assumed. Based on the summer's bad weather events, however, claims are likely to increase.

Private property insurance: Growth in premium revenues will decrease over all private property insurance classes to 1.5 per cent (2010: 2.2 per cent). Premium revenues for contents insurance are expected to stagnate. Residential buildings, in contrast, will grow by 3.0 per cent as a result of inflation.

The insurance industry has trained 22 306 people, including 15 300 insurance and finance sales clerks.

In conclusion, 2011 was a very challenging year: the benefits paid out by casualty, property and accident insurers to their customers were nearly as high as in the year of the Elbe River floods. With less than two years before the introduction of Solvency II, the new rules are still in need of improvement. For insurance companies, this means intensive preparatory work and continuing uncertainty.

The current state of the German insurance market depends on many factors. Nowadays one of them is the European insurance market, because we need to consider the German insurance market always in terms of the common European insurance market.

The vulnerable economic situation in some of the European Union member states can impliedly impact the German insurance market, especially in terms of new insurance legal system, created for the whole European economic area.

In most Member States, the workforce of non-life insurance enterprises is larger than that of life insurance enterprises, often considerably so, as in Denmark and Cyprus. In contrast, Slovakia, Greece, Hungary and Luxembourg reported larger life insurance workforces.

Among the Member States with data available there was either no employment in composite insurance enterprises (the case in at least five Member States), or the level of employment was larger in composite insurance enterprises than in life and non-life insurance enterprises combined, with only occasional exceptions to this rule.

One measure often used to indicate the size of the insurance subsector is the value of gross premiums written (which may be viewed as a proxy for turnover that is used in the other structural business statistics sectors): it should be noted that no recent data is available for the United Kingdom or Germany which play a large role in insurance markets.

Relative to population, the level of gross premiums was highest in Luxembourg both for life and non-life insurance, followed by Denmark, the Netherlands and Sweden. Despite limited data availability, the importance of the reinsurance market in Luxembourg was clear.

The ratio of capital and reserves to gross premiums written varies greatly between Member States, particularly for life insurance enterprises where it was less than 20 % in Luxembourg, Austria, Hungary and Italy, yet reached 100 % or more in Sweden, the Netherlands and the Czech Republic, as well as Iceland.

These data show the situation on the end of the first wave of world financial crisis. For some states the situation nowadays looks not different. For instance, the strongest positions held Germany, Finland and Luxemburg, according to their international credit ratings. These countries mentioned above saved their credit ratings on the highest level - AAA.

The second factor that impacts the German insurance market is the macroeconomic situation in German. The situation in the country is relatively stable despite the forecasts of the new wave of world financial crisis. By the end of February 2012 Moody's Analytics gives the following data:

Firstly, German GDP contracted 0.2% in the fourth quarter of 2011. This follows a 0.6% increase in the previous quarter, and growth for 2011 is estimated to be 3%. Consumption, exports and imports all declined, and government spending growth weakened on a quarterly basis.

GDP growth is expected to weaken further in the next quarters as foreign demand and the important industrial sector weaken due to the again-escalating sovereign debt crisis. Moody's Analytics expects the German economy to contract by another 0.2% q/q in the first quarter of 2012 and grow a modest 0.3% in 2012.

Secondly, the German unemployment rate was 6.8% in February, the same as in the previous month and down from 6.9% in December. The situation in the labor market has improved in the first two months of this year despite the German economy contracting 0.2% q/q in the last quarter of 2011. Nevertheless, the long-term outlook remains subdued. Germany is an export-oriented economy, and the still-uncontained sovereign debt crisis is likely to affect its performance in 2012.

Thirdly, German industrial production increased 1.6% m/m in January, following a previous decline of 2.6% m/m (revised from a 2.9% decrease). However, the industrial production index is still below the levels from the summer of 2011.

The German economy is feeling the effects of the yet-uncontained sovereign debt crisis, and it is contracting. The long-term view for industrial production therefore remains subdued because of the expected weaker foreign demand, including weaker demand from outside the euro zone.

Fourthly, the German trade surplus rose to €14.2 billion in January 2012 from a revised €13.9 billion a month earlier. Analysts expect the still-unresolved sovereign debt crisis to affect Germany further this year.

Slowing exports will drag on the balance in the coming months as key trade partners in the euro zone and the U.K. are facing a recession. The German economy contracted 0.2% q/q in the last quarter of 2011, and we expect it to grow a modest 0.3% in 2012 [7].

Payment discipline of companies also impacts the German insurance market. The index of payment discipline of German companies in February 2012 was 87.79 points. In comparison to January 2012 it decreased on 0.04 points (in January it was 87.83 points) [8].

These data mean that in February 2012 the 87.79% of German companies, which report their production figures and financial indicators to official statistics, made all payment in time.

The increase of the indicator was fixed by the first time since the last summer. Though the value of the indicator stills rather high and reflects the good common payment discipline in the country in general.

It is important to underline the fact, that in January the index of payment discipline in Germany had the highest value since it was estimate.

This slight decrease does not mean the new tendency to the decrease of payment discipline in the country. The situation likes to be rather stable in next few months. Some international analysts, including the chief director of the D&B Deutschland GmbH – Thomas Dold, suppose that in nearest months the indicator of payment discipline will be rather sustainable, despite some facts. The first one is that analysts forecast that the index may decrease a little in the next month (in March 2012) again. The second remind that there is a permanent ambiguity in the economic in terms of debt crisis.

2. Development of financial regulation system of insurance in conditions of common economic area in EU.

2.1 The history of insurance regulation system in Germany

Traditionally the German insurance market is always considered as a market with high level of government influence. The history of insurance regulation system in Germany proves this fact.

The first law governing state supervision of private insurers, subsequently the Insurance Supervisory Law (Versicherungsaufsichtsgesetz, or VAG) of May 12, 1901, created a central supervisory and regulatory body. In addition, the Insurance Contract Law (Versicherungsvertragsgesetz, or VVG) of May 31, 1908, regulated the legal rights and duties of the parties involved in insurance contracts.

Both mentioned laws created the legislative basis for the private insurance industry and increased the influence of the state on the insurance business.

After the First World War the situation on the market was rather unfavorable for the companies. The government had to solve some problems caused by these market conditions. The amendment of the insurance company act in 1931 considerably increased the state's influence on private insurers.

On the other hand, obligatory insurance coverage in some areas (e.g., liability insurance for master craftspeople and automobile owners) was introduced. During the years 1933 to 1945, the direct influence of the government on insurers further increased. Only the collapse in 1945 prevented the envisaged nationalization of the insurance sector.

The initial years after World War II were challenging. Private insurance was prohibited and substituted by the state-owned monopoly in the Soviet (East) sector, putting an end to the development of the private insurance systems there and forcing existing companies to move to the West. In the West sector, however, the regulation of insurers differed considerably between the British, French, and U.S. zones of occupation, complicating reconstruction [3].

No functioning state insurance supervision authority was in place until 1951. The liquidation of seven insurance companies was conducted by the Council of the Allied Forces in 1947. These insurers originally were owned by the trade unions and then integrated by force in the national-socialistic state as the companies of the Deutsche Arbeitsfront.

Increasing economic growth since the mid-1950s and favorable political developments such as the creation of the European Economic Community in 1957 facilitated the establishment of strong and reliable structures in the German private insurance market [3].

German insurers were legally organized as stock corporations, mutual insurance associations, or insurance companies under public law. Most insurers are organized as stock corporations and, as such, account for about 80 percent of the premium volume. While mutuals still play an important role with respect to the number of companies in the market, their market share is only about 14 percent of total premium volume.

The importance of insurance companies under public law is minor, both with respect to the number of companies and the premium volume written. A reason that stock corporations are the dominating legal structure in the private insurance market can be at least partly explained by organizational and capital requirements specified in section 7 (organizational requirements), and sections 22 and 53 (capital requirements) of the Insurance Supervisory Law (VAG), which apply to the insurer as long as it is in business [3].

Obviously, stock corporations provide the better basis for compliance with those requirements. Interestingly, only about 20 percent of stock corporations are listed on the stock exchange [2]. One explanation is that German insurance regulation forbids conducting life and health insurance business and property and casualty business under the roof of one legal entity, the Spartentrennungsprinzip, codified in section 106 of VAG. This requirement aimed to prevent unmanageable cross-subsidies between insurance.

An institution under the public law is a corporate body whose existence and activities are regulated not by the set of private law regulations, but by that of public law, usually governing the relationship between the authority and the citizen. An institution under a public law is created by authority's decree and serves a public purpose defined in that decree. This legal form has its roots in the historical economic and state development.

According to the German Companies Act {Aktiengesetz, or AktG), the listing on an organized stock exchange is not an obligatory feature of a stock corporation (AktG, §§1, 3). The legal form of a nonquoted company gives all advantages of a public company, such as, for example, simplified procedure of the share transfer, without being burdened by the considerable costs of a stock exchange listing. The requirements regarding the ownership of the nonlisted corporations are identical to the listed one; they are codified in AktG (requirements for all stock corporations) and the Insurance Supervisory Law (for insurance companies only) [3].

Nowadays the insurance legal system in Germany contains following Acts and Directives:

Life Insurance:

Directive 79/267/EEC – no longer in force, repealed by 2002/83/EC
Directive 90/619/EEC – no longer in force, repealed by 2002/83/EC
Directive 92/96/EEC – partially repealed by 2002/83/EC
Directive 95/26/EC - no longer in force, repealed by 2002/83/EC amending 73/239/EEC, 92/49/EEC, 79/267/EEC and 92/96/EEC - Post-BCCI
Directive 2000/64/EC amending 92/49/EEC and 92/96/EEC - Exchange of information with third countries
Directive 2002/12/EC – no longer in force, repealed by 2002/83/EC
Directive 2002/83/EC

Life assurance (recast version):

Adaptation notice (2006/C 194/07)
Adaptation notice (2009/C 41/01)
Adaptation notice (2011/C 365/06)

Non-Life Insurance:

Directive 73/239/EEC
First Council Directive – Taking-up and pursuit of the business
Directive 73/240/EEC
Abolition of restrictions on freedom of establishment
Directive 76/580/EEC amending 73/239/EEC - is obsolete, since its Article 1 is obsolete following the introduction of the EURO. It's Articles 2 and 3 have also become without object, after the first revision of the solvency margin amounts by 2002/13/EC, as well as its other Articles, which contain only final provisions laying down its date of implementation and entry into force.
Directive 78/473/EEC
Community co-insurance
Directive 84/641/EEC amending 73/239/EEC – Tourist assistance
Directive 87/343/EEC amending 73/239/EEC – Credit insurance and surety ship insurance
Directive 87/344/EEC
Legal expenses insurance
Directive 88/357/EEC
Second Council Directive amending 73/239/EEC - Provisions to facilitate effective exercise of freedom to provide services
Directive 90/618/EEC amending 73/239/EEC and 88/357/EEC - Motor vehicle liability insurance
Directive 92/49/EEC
Third Council Directive amending 73/239/EEC and 88/357/EEC
Directive 95/26/EC amending 73/239/EEC, 92/49/EEC, 79/267/EEC and 92/96/EEC – Post-BCCI
Directive 2000/26/EC - no longer in force, repealed by 2009/103/EC
Fourth Motor Insurance Directive amending 73/239/EEC and 88/357/EEC
Directive 2000/64/EC amending 92/49/EEC and 92/96/EEC – Exchange of information with third countries
Directive 2002/13/EC amending 73/239/EEC – Solvency margin for non-life insurance undertakings

Accounting

Directive 91/674/EEC
Annual and consolidated accounts of insurance undertakings
Directive 78/660/EEC
Fourth Council Directive – Annual accounts of certain types of companies
Directive 83/349/EEC
Seventh Council Directive – Consolidated accounts

E-Commerce

Directive 2000/31/EC
Electronic commerce

Insurance groups

Directive 98/78/EC
Supplementary supervision of insurance undertakings in an insurance group

Financial conglomerates

Directive 2002/87/EC
Supplementary supervision of financial conglomerates

Insurance mediation

Directive 77/92/EEC
Insurance agents and brokers – no longer in force, repealed by 2002/92/EC
Recommendation 92/48/EEC
Insurance intermediaries
Directive 2002/92/EC on insurance mediation

Motor insurance

Directive 72/166/EEC - no longer in force, repealed by 2009/103/EC
Insurance against civil liability in respect of the use of motor vehicles
Directive 72/430/EEC amending 72/166EEC
Recommendation 73/185/EEC
Recommendation 74/165/EEC
Decision 74/166/EEC – no longer in force
Decision 74/167/EEC – no longer in force
Recommendation 81/76/EEC
Directive 84/5/EEC - no longer in force, repealed by 2009/103/EC
Second Motor Insurance Directive
Directive 90/232/EEC
Third Motor Insurance Directive - no longer in force, repealed by 2009/103/EC
Decision 91/323/EEC – no longer in force, repealed by 2003/564/EC
Decision 93/43/EEC – no longer in force, repealed by 2003/564/EC
Decision 97/828/EC – no longer in force, repealed by 2003/564/EC
Decision 1999/103/EC – no longer in force, repealed by 2003/564/EC
Directive 2000/26/EC - no longer in force, repealed by 2009/103/EC
Fourth Motor Insurance Directive amending 73/239/EEC and 88/357/EEC
Decision 2001/160/EC – no longer in force, repealed by 2003/564/EC
Decision 2003/20/EC on the application of Article 6 of 2000/26/EC
Decision 2003/564/EC on the application of 72/166/EEC
Decision 2004/332/EC on the application of 72/166/EEC
Directive 2005/14- no longer in force, repealed by 2009/103/EC
5th Motor Insurance Directive amending Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC
Decision 2005/849/EC on the application of 72/166/EEC
Directive 2009/103/EC
Motor Insurance (codified version)
Adaptation notice (2010/C 332/1)

Reinsurance

Directive 2005/68/EC on reinsurance
Adaptation notice (2009/C 63/03)
Directive 64/225/EEC
Abolition of restrictions on freedom of establishment and freedom to provide services
Adaptation notice (2011/C 365/05)

Solvency

Directive 2002/12/EC – no longer in force, repealed by 2002/83/EC
Directive 2002/13/EC
Adaptation notice (2006/C 194/07)

Adaptation notice (2009/C 41/01)
Adaptation notice (2011/C 365/06)

Winding-up

Directive 2001/17/EC
Reorganization and winding-up of insurance undertakings

European Insurance and Occupational Pensions Committee (formerly Insurance Committee)

Directive 91/675/EEC setting up an insurance committee
Decision 2004/6/EC establishing CEIOPS (Committee of European Insurance and Occupational Pensions Supervisors)
Decision 2004/9/EC with the aim to establish EIOPC (European Insurance and Occupational Pensions Committee)
Directive 2005/1/EC establishing a new organizational structure for financial services committees

International agreement

EU-Switzerland agreement on non-life insurance

Decision 91/370/EEC - Conclusion of the Agreement between the EEC and the Swiss Confederation
Agreement between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance
Directive 91/371/EEC - Implementation of the Agreement between the EEC and the Swiss Confederation
Council Regulation (EEC) No 2155/91 of 20 June 1991 laying down particular provisions for the application of Articles 37, 39 and 40 of the Agreement between the EEC and the Swiss Confederation on direct insurance other than life assurance
2001/776/EC - EC-Switzerland Joint Committee Decision No 1/2001 amending annexes and protocols [4]

2.2. The EU Directives and Solvency as the basis of insurance legal system in Germany

A single insurance market, promoting economic efficiency and market integration, requires a common framework, to allow insurers to operate throughout the EU and to establish and provide services freely. The legal framework must also protect customers, particularly individuals, where the safe delivery of promised benefits can be vital.

This is achieved by a common prudential framework, founded on three generations of life and non-life directives, harmonizing essential rules. This frame-work needs to be updated, revised, completed and – where possible – simplified to respond to market developments and product sophistication [4].

There has been considerable EU legislative activity in the sphere of financial and insurance services centered upon the creation of an internal market for financial and insurance services. This work has been conducted through the Financial services action plan (FSAP), which was published by the European Commission in 1999 and the legislative phase completed in 2006 [5].

The coordinating directives became crucial point oa German insurance legal system. They were worked out to realize the main goals of the European insurance common market. They determined the common rules for all insurance companies in all states – members of the European Union; such are rules of establishment, of receiving license, of the whole commercial functioning of insurance companies and also the rules of supervision.

So-called Directives of the first generation (from the 24th of July 1973 for the non-life insurance №73/239/EEC and from the 5th of March 1979 for the life insurance) defined the organization of the insurance company and were devoted to the freedom of insurance company's establishment.

Since the time these Directives came into force the position of companies from other countries became equal to the national ones. That helps to realize the principle of honest and fair competition on the European insurance market.

But there were some problems with harmonization of tariffs and contracts conditions in different countries. So the new insurance company was to adopt specifications of national insurance legal system.

The Directives of the years 1973 and 1979 determined the common rules of receiving the license for the insurance companies. This rule ensured the unification of this process on the territory of all members of the European Union.

Directives of the first generation determined the share of responsibility for the receiving services and exporting them countries in the area of supervision. Home member states are responsible for the solvency of the head company. This responsibility covers all spheres of its activities, including its subsidiaries in other countries. For the host member states the Directives determine the responsibility for the technical reserves of portfolio this country deal with.

The most significant achievement of the Directives of the first generation was the determined freedom of insurance company organization in any country of EU. The process of national markets liberalization began.

The Directives of the second generation allow an insurance company from other state to operate on the market of another state without permanent presence on it. These Directives were created after the taking of two standard acts: European Single Act from February 1986 and the European court decision from the same year.

These standard acts declared the freedom to provide services. That was one of the most significant achievements of the Directives of the second generation. They help to achieve the liberalization of “groso modo” – risks of big companies. The supervision in that case should be organized by home country control. The activity of insurance companies from any country is not obligatory under host country control.

The Directives of the second generation include Non-Life Insurance Directive 88/357/EEC (from the 22th of July 1988, that came into force in July 1990) and Life Insurance Directive 90/619/EEC (November 1990; May 1993 accordingly). They accelerate the formation of common European insurance market.

The main reforms of the Directives of the second generation are: redistribution of controlling functions between states and the determination of the rule of the single license.

The third stage of insurance legal system is the Directives of the third generation. They are also called “single license”. They came into force the 18^{th} of July 1992 and the 10^{th} of November 1992 for non-life and life insurance accordingly.

These Directives determined several rules. The first one is the rule of single license. The license received in one European country is valid in others. But the subsidiary should receive its own license while filial can use the license of the head company.

This is possible due to the FPS system.

The second important rule is the rule concerning the right of transmission of insurance portfolio and single risks. This rule concerns supervision bodies and their responsibility.

The third rule is the prohibition of petty-minded meddling from the supervision bodies. This meddling can be set up only in case than supervisor founds some violation in company’s activity.

The forth rule concerns the coordination of technical reserves regulation. The assets should cover technical reserves according to this rule.

The fifth rule prohibits the discrimination in national rules.

The sixth rule determinate the necessity of good quality and full contents of information.

In general the Directives of the third generation give a policyholder more protection.

Nowadays the process of formation the common legal basis of European insurance market is not completed. The further harmonization and unification of the insurance legal system continue. This process is reflected in the development of following documents by Council:

- The fifth motor Directive, which main goal is to increase the minimal cover amount of damage and the harmonization of some aspects of motor vehicle liability;
- The further consumer credit Directive, which will harmonized the German insurance legal system with the European one;
- The reinsurance Directive, which will determinate the common requirements for business solvency and safety for the consumers of insurance services;
- The pension system Directive, which main goal is the increase of adaptation of workers in other countries. This Directive is very important for German insurance legal system because it is relied with tax legislation.

The quality of cooperation and communication of supervising bodies became important after the taking of mentioned Directives. EIOPA - European Insurance and Occupational Pensions Authority was established according to the European Parliament and Council resolution №1094/2010.

European Insurance and Occupational Pensions Authority took the following Directives to solve some market problems.

The Directive 2009/138/EC of European Parliament and Council from the 25th of November 2009 partially solved the problem of harmonization in European states. Its efficiency is not yet recognize by experts despite good statistics material.

The Directive Solvency I 73/239/EEC 2009 was taken in 1973. The main goal was the revision and the renovation of solvency regime. The next Directive so-called Solvency II will come into force in 2013. Solvency II is also sometimes called “Basel for insurers”.

Solvency II consists of three parts:

- Part I consists of quantitative requirements (for instance Minimum Capital Requirements (MCR)).
- Part II determines requirements for top-managers and risk-managers.
- Part III is oriented to the transparency of requirements and to information disclosure.

The effectiveness of this system is proved by stress tests of insurance sector in European Union. Tests were made on the data of 221 insurance companies and showed that only 5% of these companies do not suit the requirements to the size of the equity. This proves the sustainability of the European insurance market and the effectiveness of legal system alterations in the sphere of protection of consumers’ rights.

Literature

(1) MAURER, R. 2006. *The German Insurance Industry : Market Overview and Trends*. Somova B., Goethe-University : Frankfurt, 2006, p.14-21.

(2) MAURER, R. and ELGETI, R. 2000. Zur Quantifiziemng der Risikopramien deutscher Versicherungsaktien im Kontext eines Multifaktorenmodells. In *Zeitschrift fur die gesamte Versicherungswissenschaft,* 2000. S 89: 577-603.

(3) MENHART, M. 2003. *Product Innovation and Population Dynamics in the German Insurance Market*. Pyka A., Ebersberger B., Hanusch H., Beitrag Nr. 240, Juni 2003 University of Augsburg, Economics Department, Universitaetsstr. 16, D-86135 Augsburg, Germany, 4-12.

(4) European Commission official site [online]. Available: http://ec.europa.eu/internal_market/insurance/legis-inforce_en.htm.

(5) Financial auxiliaries statistics - NACE Rev. 1.1. Eurostat research. Available: http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Financial_auxiliaries_statistics_-_NACE_Rev._1.1.

(6) Gesamtverband der deutschen Versicherungswirtschaft. 2011. p. 4-12 Available: http://www.gdv.de/wp-content/uploads/2012/02/Yearbook_2011.pdf.

(7) Moody’s analytics [online] Available: http://www.economy.com/dismal/outlook/country.aspx?geo=IDEU.

(8) Финмаркет [online] Available: http://www.finmarket.ru/z/nws/news.asp?id=2821704.