



Country Guides: Insurance

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The adoption of the Law on Insurance No. 407-XVI dated December 21, 2006, and subsequent regulations issued by the public regulator, marked a turning point in insurance business regulation in Moldova. Insurance regulatory and supervisory power is vested in the financial market "mega-regulator", the National Commission for Financial Market. The new legislation has been harmonised with European Union directives and its core provisions as follows:

- Life and non-life (general) insurance businesses require separate, exclusive, licences.
- The minimum share capital for general insurance is set at MDL15m (approximately €900,000), at MDL22.5m for life insurance and at MDL30m for reinsurance. These thresholds are to be achieved gradually by the end of the transition period of five years after the enactment of the new law, i.e., by April 2012.
- Insurance brokerage is subject to licensing, which was introduced in 2008, and to minimum capital requirements, equal to MDL25,000 (€1,800). As of March 1, 2010 there 47 insurance brokers had already been licensed.
- Acquisition of a significant (10 per cent or more) equity interest in a Moldovan insurer/reinsurer is subject to prior notification to the NCFM, while the increase of such interest to 20 per cent, 33 per cent or 50 per cent is subject to NCFM prior consent.
- The early effects of the new rules have been market consolidation and the squeezing out of small insurers. Between 2007, when the new Law on Insurance was enacted, and the end of 2009, the number of licensed insurers decreased from 43 to 24.

Draft Legislation

The NCFM has drafted and submitted for public consultation amendments to the Law on Compulsory Insurance of Civil Liability for Damages Caused by Vehicles, which relates to Green Card insurance. The proposal has been triggered by a much-debated case in which the current members of the Moldovan Motor Insurers Bureau blocked market access for new entrants, thus monopolising the Green Card market. Both anti-trust regulators and the NCFM found that they lacked effective law enforcement tools to counter the decision. Under the NCFM's new proposals, any insurer holding a valid licence for internal motor third-party liability insurance will become, *ex officio*, a member of the Moldovan MIB and will be able to issue Green Card policies. The amendments are expected to allow market entrance for eligible new insurers and, ultimately, to make Green Card insurance more affordable.

Establishing an insurance company

Incorporation

An insurer should be established as a joint stock company and will be deemed an "entity of public interest". This qualification brings about extensive reporting and disclosure requirements. Existing insurers which operate as limited liability companies will have to become joint stock companies by 2012. The share capital should be paid in cash and must only be drawn out of the shareholders' own funds. Borrowed money cannot form part of the share capital, which must be fully paid upon incorporation.

In line with Directive 72/239/EEC, regulatory clearance is required for the incorporation of an insurer. The qualification criteria refer to the financial stability of the founder(s), the source of cash contributions and the fit and proper tests for significant shareholders and administrators (directors and officers).

Licensing

From October 2008, authority for insurance licensing was transferred from the Licensing Chamber to the NCFM. Under the licensing process:

- An insurer must submit a licence application, accompanied by: confirmation of share capital contribution; representation that the contributions were made out of own funds; insurance terms and conditions for each class of insurances; software for calculation of insurance premiums and technical reserves; the reinsurance programme; and a three-year business plan. Significant shareholders should reveal their identity and financial position in accordance with the NCFM regulations.
- The NCFM examines the application and attachments on its merits and must decide within 30 working days after submission of the full application package.

The licence is issued for an indefinite period of time and may be suspended or withdrawn for breaches of law. Licence suspension or withdrawal can be appealed in court.

Mergers and acquisitions

Under the general rule, shares in Moldovan insurers/reinsurers which operate as joint stock companies can be purchased only via the stock exchange through the bidding procedure. Beside the positive effects on the capital market, this "concentration rule" can have the adverse affect of stimulating a potential unwanted takeover. To prevent this side effect, when the purchase is agreed by the seller, the parties to the share transfers can appeal under the exhaustively listed exceptions to the concentration rule. An acquirer of a controlling (i.e., more than 50 per cent) equity interest in an insurer is bound to issue a mandatory purchase public offer, which is addressed to the rest of the shareholders, within three months of acquisition. Unless this requirement is fulfilled, the acquirer can exercise the voting right only in respect of 25 per cent of the insurer's shares. In addition, the draft amendments to the securities laws aim to enact the "squeeze-out" right, i.e., the right of shareholders owning 95 per cent of shares to make the minority shareholders sell their shares upon market terms.

Any insider (including any shareholder that, individually or together with its affiliates, holds at least 50 per cent of the voting shares) can sell their shares either through public offer or privately, subject to the observation of price setting and information disclosure requirements. The acquisition of shares (participations) in insurers which operate during the transition period as limited liability companies can be done through direct share transfer agreements. No mandatory buy/sell public offer requirements would apply in such a case.

Insurance intermediaries

Insurance intermediaries are insurance agents and insurance brokers. There is no requirement for licensing insurance agents, which the Law on Insurance defines as individuals or legal entities that carry out professional activity based on proxy issued by the insurer and conclude insurance contracts on the terms set forth in such proxy. An insurance broker, subject to licensing, is defined as a Moldovan legal entity which negotiates the insurance agreement on behalf of its client and provides assistance during the contract operation or, as the case may be, in connection with loss adjustment. Cross-border cession of insurance risks into reinsurance can be done either directly or via reinsurance brokers, local or foreign.

Reinsurance: risk transfer to foreign reinsurers

Moldovan insurers/reinsurers can cede insured risks to foreign reinsurers where the latter are licensed and supervised in their home country. Where a Moldovan insurer transfers the risks to a foreign reinsurer, such Moldovan insurer must retain at least 20 per cent of the total exposure. The minimum retention requirement, however, will become effective only after the five-year transition period expires. Bearing in mind that the old threshold (minimum 10 per cent own retention) which had been imposed by the insurance regulator imposed was cancelled in 2006, Moldovan insurers are free to cede into reinsurance up to 100 per cent of the policies underwritten until April 2012.

Cross-border insurance

Moldovan companies or individuals can only contract insurance directly with foreign insurers when Moldovan insurers cannot offer equivalent insurance. Under Article 1306 of the Civil Code: "Persons from the Republic of Moldova enter into insurance contracts with entities registered in the Republic of Moldova, except for the cases when the required insurances are not operated on the domestic market." To learn whether a particular kind of insurance is offered or not on the Moldovan market, the interested person can either contact the Moldovan insurers or make enquiries with the NCFM about the insurance classes that Moldovan insurers have filed.

This rule is also applicable to compulsory insurance, except for motor third party liability insurance, which can only be offered by Moldovan licensed insurers, as well as social insurance and health and sickness compulsory insurance, which are the monopoly of state-owned entities appointed by the law.

Voluntary and compulsory insurance

In voluntary (facultative) insurance, the terms of insurance are agreed mutually between the insurer and the insured, in accordance with the insurance conditions of the insurer. Moldovan law makes it mandatory for the insurer to produce insurance terms and conditions to the insured party in an adequate form. The law sets forth the terms of compulsory insurance. Compulsory insurance can be divided into groups, depending on the eligible insurers:

- Insurance which can be procured from a foreign insurer where it is not available on the Moldovan market:
 1. Civil liability of the carrier toward the passenger, which covers the risk of damages to the life, health and property of the passenger who travels by road, air, rail or ship transport (Law on the Mandatory Insurance of the Carriers toward the Passengers, No. 1553-XIII of February 25, 1998). This also includes the passenger's insurance in sea transportation (Art. 93 of the Code on Commercial Sea Navigation, No. 599-XIV of September 30, 1999). From December 23, 2008, the Republic of Moldova became party to the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, May 28, 1999).
 2. Cargo insurance by the forwarder (Art. 1079 of the Civil Code).
 3. Tourist travel insurance, which covers the risks of traffic accidents, sickness, etc., during travel (Law on Organisation and Carrying-Out of Tourist Business, No. 352-XVI of November 24, 2006).
- Compulsory insurance which can be procured only from Moldovan insurers (i.e., direct cross-border insurance is not allowed):
 1. Internal motor third party liability insurance (Law on the Mandatory Insurance of Civil Liability Against the Damages Caused by Motor Vehicles, No. 414-XVI of December 21, 2006, effective from September 9, 2007).
 2. Military state insurance, which covers the risk of death or loss of working ability of the military (Government Resolution No. 214 of April 10, 1996).
- Compulsory state insurance, which can be procured only from the state-owned entities:

1. Social state insurance that the National House for Social Insurance offers, which covers the risks of death, temporary loss of working ability of employees and other eligible individuals due to sickness/injury, loss of employment, as well as specific events such as retiring age (social pension), birth of a child (maternity aid) and sick care (Law on the Public Social Insurance System, No. 489-XIV of July 8, 1999).
2. Medical state insurance offered by the National Company for the Medical Insurance, which assures a minimum established coverage for the risk of sickness/injury of the insured individuals (Law on the Mandatory Medical Care Insurance, No. 1585-XIII of February 27, 1998).

Motor third party liability insurance with a foreign insurer

As a member of the International Motor Insurance Card System (the Green Card System), which was established in 1952 under the aegis of the United Nations, the Republic of Moldova recognises International Motor Insurance Cards, which foreign insurers issue on behalf of the Moldovan Motor Insurers' Bureau. The Moldovan Motor Insurers' Bureau is legally mandated to carry out loss adjustment activities on behalf of foreign insurers that issue Green Cards, to represent such foreign insurers before Moldovan authorities and in court proceedings, and to settle the insurance claims, in accordance with the Internal Regulations of the Council of Bureaux, which were issued in Rethymno, Crete in May 2002, and revised in Lisbon on May 29, 2008. The Moldovan MIB currently has only four full members, although other entrance applications are pending.



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