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Part 2:1)b

INSURANCE REGULATION AND SUPERVISION IN OECD COUNTRIES, ASIAN ECONOMIES, LATIN-AMERICAN COUNTRIES AND CEEC AND NIS COUNTRIES

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2000 (update)

Comparative tables on the insurance regulation and supervision in Asian economies, Latin-American countries and CEEC and NIS countries may be downloaded from the insurance and pension OECD website: www.oecd.org
This report is part of the OECD Insurance and Private Pensions Compendium, available on the OECD Web site at www.oecd.org/daf/insurance-pensions/ The Compendium brings together a wide range of policy issues, comparative surveys and reports on insurance and private pensions activities. Book 1 deals with insurance issues and Book 2 is devoted to Private Pensions. The Compendium seeks to facilitate an exchange of experience on market developments and promote "best practices" in the regulation and supervision of insurance and private pensions activities in emerging economies.
The views expressed in these documents do not necessarily reflect those of the OECD, or the governments of its Members or non-Member economies.

Insurance and Private Pensions Unit
Financial Affairs Division
Directorate for Financial, Fiscal and Enterprise Affairs

TABLE OF CONTENTS

INSURANCE REGULATION AND SUPERVISION IN OECD COUNTRIES, ASIAN ECONOMIES, LATIN-AMERICAN COUNTRIES AND CEEC AND NIS COUNTRIES

OECD STUDY

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Introduction

This report, sponsored by the Japanese government, provides a unique comparative analysis and overview of insurance regulatory and supervisory systems in OECD countries, 12 Asian economies, 18 Latin-American countries and 14 Central and Eastern European countries (CEEC) and New independent states (NIS), which are covered by the programme of the OECD Centre for co-operation with non Members. The information collected on OECD countries is based on a comprehensive questionnaire that was sent at the occasion of the updating of the OECD 1988 report on insurance regulation and supervision. The data related to Asian economies were collected at the occasion of the first OECD Conference on insurance regulation and supervision in Asia, organised in Singapore on 1-2 February 1999 (and subsequently updated), the data on Latin-American countries are mainly based on responses of these countries to an OECD questionnaire and bilateral consultation with them, and the data on CEEC and NIS countries were collected for the Second East-West conference on insurance in economies in transition, organised in Warsaw in 1997 and updated during summer 1999; presently the Secretariat is still in the process of receiving revisions and data for CEEC and NIS members. The overview and the analysis reflect the situation up to the end of 1998.

This report comprises six main sections, which are the following:

ORGANISATION OF INSURANCE REGULATION AND SUPERVISION

REGULATION AND SUPERVISION OF DIRECT INSURANCE COMPANIES : LICENSING OF DIRECT INSURANCE COMPANIES

ONGOING SUPERVISION

REGULATION AND SUPERVISION OF REINSURANCE COMPANIES

INSURANCE COMPANIES IN FINANCIAL DIFFICULTIES

OTHER INSURANCE REGULATORY ITEMS (Compulsory Insurance; Insurance Distribution; Taxation)

In the analysis "OECD member countries", "CEEC and NIS countries", Asian economies and Latin-American countries (referred to below as the "regions") mean respectively the following countries.

OECD Member countries

Australia, Austria, Belgium, Czech Republic, Canada, Denmark, Finland, France, Germany, Hungary, Greece, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

CEEC and NIS

Albania, Armenia, Belarus, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Moldova, Romania, Russia, Slovakia[1], Slovenia and Ukraine.

Asian economies

Brunei, Hong Kong, Indonesia, Laos, Macau, Malaysia, Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Vietnam.

Latin-American countries

Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela, which are members of the Association of Latin-American Insurance Supervisors (ASSAL).

This report has been prepared by the Insurance and Private Pensions Unit and especially Mr Jörg Vollbrecht (who prepared, as a consultant, the analytical section), Mr Robert Sterling and Ms Fredericque Evraert. The views expressed here do not necessarily reflect those of the Insurance Committee, the Secretariat or the Member countries. This report will be published under the responsibility of the Secretary-General of the OECD.

1. Slovakia is an OECD Member country since 2000

REGULATION AND SUPERVISION IN THE OECD AREA, ASIAN ECONOMIES, LATIN AMERICAN COUNTRIES AND CEEC AND NIS COUNTRIES

1. ORGANISATION OF INSURANCE REGULATION AND SUPERVISION

All countries of the four regions studied, OECD Member countries, Asian economies, Latin-American countries with the one exception of Costa Rica and the CEEC and NIS countries, report the existence of insurance regulatory and supervisory authorities.

In Costa Rica, the non-existence of an insurance supervisory authority is related to the fact that in this country the State monopoly has been providing all lines of insurance since 1924. There is, however, insurance legislation which covers the activities of the State monopoly called the National Insurance Institute.

1.1. Regulatory Authority

In OECD Member countries, the regulatory authority normally is part of or directly accountable to a ministry, in many cases the ministry of Finance or Economy. In several OECD countries, however, the insurance authority is a department of another ministry as, for example, Industry and Trade (Iceland, Ireland, Italy, the United Kingdom, and the United States), Social Affairs (Finland), and Development (Greece).

Similarly, in the majority of Asian economies (Brunei, Indonesia, Laos, the Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam), a department within the Ministry of Finance is responsible for regulation. In three Asian economies, a central bank is responsible for regulation and supervision of all financial businesses including insurance business: in Macau the Monetary and Foreign Exchange Authority of Macau, in Malaysia the Bank Negara Malaysia, and in Singapore the Monetary Authority of Singapore (to be seen as a de facto central bank). In the CEEC and NIS countries, the Ministry of Finance is the competent authority for insurance regulation.

1.2. Supervisory Authority

In some countries the supervisory authority is part of the ministry of Finance, while in others it is another administrative body (in many cases subordinate to that ministry). Most of the OECD countries have an independent supervisory authority, exceptions being the Czech Republic, Japan, Turkey and the United Kingdom. In Asian economies, only Hong Kong’s insurance authority, the Office of Commissioner of Insurance, is separate from other governmental organisations and therefore comparable to supervisory authorities in Continental Europe

Few of the CEEC and NIS countries have a really independent authority.

A division or a department within a Ministry is responsible for insurance supervision in none of the Latin-American countries. In eight countries, there is a supervisory body specialised in insurance supervision. In seven countries, a banking supervisory body conducts insurance supervision as well. In Bolivia, one supervisory body is responsible for both securities and insurance supervision.

1.3. Financing

The financing methods of an insurance supervisory body can be classified into the following five categories:

By the State budget only: Most of CEEC and NIS countries; most of Asian economies; Spain; Argentina and Chile.

By supervised institutions only: insurers' contributions. Most of OECD countries; Albania, Estonia, Latvia and Lithuania; Hong-Kong; Bolivia, Brazil, Colombia, Ecuador, Mexico, Peru and Venezuela.

By the state budget and insurance industry (co-financing): Germany, Korea, Mexico, Poland and United Kingdom; Croatia and Slovenia; Cuba and Panama.

By the Central Bank only: Macau, Malaysia and Singapore; Paraguay and Uruguay.

By the Central Bank and supervised institutions: El Salvador, Guatemala, Honduras and Nicaragua.

1.4. Workforce

The number of persons employed in insurance supervision depends on the size of the country and the number of insurance companies operating there. In the OECD area, the supervision workforce varies widely across countries, ranging from around ten employees in the Czech Republic to over 400 in Mexico.

In Asian economies, the range is from 3 employees in Laos to 518 in Thailand. In Latin-American countries the range is from 6 (Nicaragua) to 82 (Colombia), except in Argentina (372) and in Brazil (309).

In the CEEC and NIS countries, the number of employees working for the supervisory authority is still relatively low – about 20 on average – except in Russia, where there are more than 200.

2. REGULATION AND SUPERVISION OF DIRECT INSURANCE COMPANIES: LICENSING

In all the countries studied, insurance companies are subject to regulation and supervision. Direct insurance companies in all countries first have to apply for a licence in order to operate. The licence is usually issued by the supervisory authority. In some OECD Member countries, the competent authority is the ministry (at least for licensing foreign companies), while in several countries there are independent administrative bodies. In all Asian economies (except Brunei where the establishment of insurance companies is subject to the approval of the Ministry of Finance[2]), the establishment of insurance companies is subject to a licence granted by the insurance regulatory/supervisory authority.

2.1. Licensing Principles

2.1.1. Separation of Life and Non-life Business

As a general rule, insurance companies may not transact both life and non-life business to avoid that one activity could be used to support the other. The regulations in force therefore distinguish, where necessary, between the two activities and in most cases include specific provisions for each. Some countries allow companies transacting the two kinds of business concurrently. In the OECD countries, with the exception of the Czech Republic and Mexico, life insurance and non-life insurance have to be separated. In the EU and Switzerland, however, the authorisation to take up life insurance business includes permission to write supplementary insurance such as accident and health insurance, though separate management is required for the additional classes. A composite insurer with its head office outside the EU carrying on non-life insurance in EU countries must establish a subsidiary if it wishes to carry on life insurance, and vice versa.

In the majority of Asian economies (Brunei, Hong Kong, Laos, Malaysia, the Philippines, Singapore, Sri Lanka, Thailand and Vietnam), composite insurers currently exist. It seems, however, that the admissibility of composite insurers tends to be limited in Asian economies as well. In Hong Kong and Malaysia, a new composite licence can no longer be granted. In Thailand, all composite insurers were required to split life and non-life business into two separate companies by April 2000.

In 13 Latin-American countries (Argentina, Brazil, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela), there exist at present composite insurers which concurrently conduct both life and non-life business. Of these 13 countries, only two countries (Argentina and Ecuador) prohibit the new establishment of such insurers. In both countries, the new establishment of composite insurers has been prohibited since 1998. Four Latin-American countries (Bolivia, Chile, Colombia and Cuba), where there are no composite insurers, actually prohibit the concurrent operation of life and non-life business, although accident and health business can be placed by both life and non-life insurers in Chile and Colombia.

2. However, pending the introduction of the Insurance Act, there is currently a "freeze" on the registration of new insurance companies in Brunei.

2.1.2. Cross-sectoral Activities

In all OECD member countries, the underwriting of insurance risks is restricted to insurance companies, which may only transact insurance business. This measure is meant not to place at risk the funds set aside and preserved under strict supervision for paying insurance claims. There are different opinions on the question whether an insurance company may hold shares in another non-insurance company. The Czech Republic, Hungary, Japan, Korea and the United States report limits on shareholding in non-insurance companies. Within the EU, shareholding is accepted and, in principle, holding of shares is not be seen as carrying on the business of the respective company. While the creation of a banking subsidiary by an insurance company is prohibited in Germany, Hungary, Japan, Korea, Mexico and Poland (it is allowed with limitations in Australia, Norway, Sweden, Switzerland and Turkey), many countries allow the shareholding in a bank. Less countries and under more strict limitations allow the shareholding of a bank in an insurance company (with limitations: Australia, Canada, Iceland, Japan, The Netherlands, Norway, Sweden and the United States; forbidden in Mexico). The creation of an insurance subsidiary by a bank is prohibited in Finland, Iceland, Japan and Mexico. In Canada, the Netherlands, Sweden and the United States, the creation is restricted. Asian economies do not report any provision on cross-sectoral investment except Chinese Taipei where insurers are allowed to invest in special projects and public investment with the approval of the competent authority. Ten Latin-American countries report on the existence of provisions related to cross-sectoral investments, but Bolivia does not report the content of such provisions. In Brazil, life insurers may place open pension funds business. Colombia, Costa Rica and El Salvador do not allow banking subsidiaries of insurance companies, and vice versa. In Chile, insurance companies are allowed to create banking subsidiaries whereas banks are not allowed to create insurance subsidiaries. In Panama and Peru, there is no restriction on cross-sectoral activities. In Honduras and Hungary, insurance companies should not carry out any activities other than those in connection with (for the purpose of) their insurance business.

2.2. Licensing Requirements

The main licensing requirements differ according to region, although a number are common to all countries.

2.2.1 Legal Form

Almost all countries require insurance undertakings to have a recognised legal form. Generally, the insurer must be a legal person.

All OECD Member countries (with the exception of Luxembourg), Asian economies, Latin-American countries and CEEC and NIS countries permit insurance companies in the form of companies limited by shares, or stock companies, although they call it by different names (corporation, common stock company, anonymous society …).

In all OECD countries (except Australia and the Czech Republic), insurance undertakings may also take the form of mutual societies, although the structure of insurance mutuals is not the same everywhere. In the United States, there are many “town mutuals” or “county mutuals”, covering agricultural property risks. Mutual or co-operative insurance companies are also common within the EU for livestock, small vessels and burial benefits. In addition, mutual societies are also admissible in Bulgaria, Croatia, Latvia and Slovenia, Indonesia and Vietnam, Argentina and Cuba. Cooperatives are permitted in Indonesia, Singapore, Chinese Taipei, Argentina and Colombia.

Publicly owned companies are allowed in half of the OECD Member countries (Australia, Belgium, Czech Republic, Finland, France, Germany, Hungary, Iceland, Mexico, Poland, Portugal, Spain, Turkey, the United Kingdom and the United States)

Among the CEEC and NIS countries, publicly owned companies are permitted in Belarus, Croatia, Lithuania and Romania.

In Hong Kong, another legal form is admissible: “association of underwriters” (like the Lloyd’s in the United Kingdom).

2.2.2 Business Plan

Most countries of the four regions are asking for submission of a so-called business plan. This scheme of operations specifies, in particular, the risks which the insurance company intends to cover, the proposed reinsurance, information on expenses of the first years and the financial resources available. In OECD Member countries, especially in EU Member countries, such a business plan is required. Many countries require domestic as well as foreign direct insurance companies to submit the business plan for approval. In Asian economies, a business plan for the first three years is required in Hong Kong, Indonesia, Laos, Macau, Malaysia, the Philippines and Sri Lanka, whereas a business plan for the first five years is required in Singapore, Chinese Taipei, Thailand and Vietnam.

Only six Latin-American countries (Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Uruguay) require the submission of a business plan or a similar document. Five countries (Bolivia, Colombia, Ecuador, Panama, Peru) require the submission of a feasibility study instead of a business plan. Even among the six countries requiring a business plan or a similar document, the time horizon to be covered by such a plan is not uniform. Likewise, among the five countries requiring a feasibility study, the time horizon to be covered is not uniform. Three countries (Argentina, Brazil and Chile) explicitly report that, at least at this stage, no business plan is required.

2.2.3 Managerial Requirements

Almost all OECD countries require insurance companies to submit for approval information attesting to the professional reputability and competence of the management – the so-called “fit and proper” requirement- (exceptions being Australia, Finland, France, Norway, Switzerland and Turkey where the requirement only has to be produced and the Czech Republic where it is not required at all). This requirement is also asked for by most of the CEEC and NIS countries. For Asian economies, a fit and proper requirement is referred to by six countries (Hong Kong, Macau, Malaysia, Singapore, Chinese Taipei and Vietnam). No Latin-American country refers directly to a “fit and proper” requirement. However, in Peru individuals or legal entities wishing to organise insurance companies must be morally suitable and financially solvent. Likewise, in Uruguay the suitability of directors and owners is required.

2.2.4 Shareholder Information

National regulations often provide for specific supervision of share ownership so as to avoid any reduction in the capital base of insurance companies. In the EU, with only a few exemptions regarding foreign companies (e.g. Italy, the Netherlands, Portugal and Sweden), insurance companies have to notify the competent authority of the identity of the direct and indirect shareholders and members holding qualified participations (10 % of the insurance company’s capital or voting rights or possibility of exerting a decisive influence on the management) as well as the amount of these participations. The shareholder identification is also asked for in other OECD Member countries but not – as it appears – in Switzerland. The list of shareholders has to be approved in Belgium, the Czech Republic, Finland, Germany, Iceland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Poland, Portugal, Sweden, the United Kingdom and the United States. In Asian economies, only Macau reports that shareholders have to be of good repute.

Some CEEC and NIS countries require a list of the principal shareholders and particulars of their stake in the company; this applies to Albania, Bulgaria, Croatia, Estonia, Latvia and Slovenia.

2.2.5 Financial Requirements

In all OECD Member countries but Japan, there are rules concerning paid-up share capital of companies limited by shares. In most countries it is sufficient to pay an amount between 20 and 50 per cent. Almost all countries – the exceptions being Korea and Mexico[3] - require that insurance companies possess a certain minimum capital as a condition for authorisation. The amount required varies from country to country according to the insurance class written. In the EU, in life insurance, under the First Life Insurance Directive of 1979, at least 800 000 ECU is required. In non-life insurance the amount varies with the class of business written (the largest amount of 1,4000,000 ECU is required for credit insurance). Besides, some EU Member countries ask for the first years for an organisation fund to finance the setting up of the organisation. In most cases, no specific amount is fixed because the starting costs depend on the structure of the company and the classes written. In some countries, a deposit, either of a fixed or variable amount, is required in addition to the minimum capital. The amount largely depends on the type of the classes written. In the EU, the fixed amount equals 25 per cent of the minimum guarantee fund. Deposits are also required for domestic and foreign companies by the Czech Republic, Korea, Mexico, Turkey and the United States and for foreign companies only by Finland, Iceland, Japan and Switzerland. All Asian economies report the existence of a minimum capital requirement. In Hong Kong, Macau and Malaysia, a certain minimum amount of solvency margin is required. Regarding the amounts of minimum capital required, in all Asian economies excluding Chinese Taipei, different amounts are stipulated for different types of insurers. Very often, capital shortage is a major problem in insurance markets in CEEC and NIS countries. The main reasons are the unstable economic situation, limited savings and the underdeveloped state of capital markets. One of the important factors in expanding the capital base is to increase foreign investments. This is a measure that is not always supported by governments of the concerned countries. Another point is inflation. Several countries, Lithuania being one of them, have decided to update their legislation more frequently and make adjustments for inflation and changes of exchange-rates. The amount of the required minimum capital very often is very low, as in Belarus, Republic of Moldova and Romania. Ukraine and the Russian Federation intend to increase the minimum capital requirement in order to make their markets more financially secure. These countries specify the capital requirement in foreign currency while others specify it in local currency but through an equivalent such as a multiple of the minimum monthly wage.

In all Latin-American countries, a minimum capital is required. In nine countries (Cuba, Ecuador, El Salvador, Guatemala, Nicaragua, Paraguay, Peru, Uruguay and Venezuela), the amount of a minimum capital depends on lines of insurance to be operated. In Colombia, the amount of a minimum capital is stipulated as the addition of a fixed amount applicable to all applicants and an amount depending on the nature and number of lines to be operated. In Brazil, it consists of an amount corresponding to lines of insurance to be operated and an amount corresponding to the States where an applicant wishes to operate. In four countries (Bolivia, Chile, Honduras, Panama), the amount of the minimum capital is uniform. As a

3. In these countries however, a minimum share capital is required for company limited by shares (cf. Table 9).

measure to reflect inflation, the amount of a minimum capital is in Peru updated quarterly by using the wholesale price index. In Chile and Ecuador the amount of a minimum capital is stipulated by using a kind of index which reflects inflation.

2.2.6. Specific Requirements for Branches and Subsidiaries

No OECD Member country has reported the application of the Market Need Test, whereby applications may be rejected because of the excessive number of existing insurance companies. However, five Asian economies (Macau, Malaysia, Singapore, Chinese Taipei and Vietnam), six Latin-American countries (Bolivia, Chile, Colombia, Honduras, Nicaragua and Venezuela) and four CEEC and NIS countries (Croatia, Latvia, Slovenia and Ukraine) report the possibility of applying this test. In Australia, new approvals of non-resident life insurers have been restricted to domestically incorporated entities. In the United States, 17 States have no mechanism for licensing initial entry of a non-US insurance company as a branch, unless that company is already licensed in another US-State. Within the EU, the system of the single authorisation (European passport) permits any insurance company with its head office in one of the EEA Member countries and authorised in that country to offer in the other EU Members its products through agencies or branches or under the freedom of services provision without having to apply for an authorisation in the host country while being supervised only by its state of origin (home country control). The supervisory authorities of the host countries have to be informed of the intention to do business and the nature of the risks covered. Outside the OECD area, only a few countries allow branches and subsidiaries of foreign companies in an unlimited way. In Asian economies, market access is reported unrestricted only by Hong Kong. In the majority of Asian economies, there exist branches of foreign insurers (Brunei, Hong Kong, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand). Nonetheless, in these economies, except for Hong Kong, the establishment of new branches is subject to limitations.

In most Latin-American countries, there still remain a number of restrictions on market access, although in some of these countries the market share of foreign-controlled insurance companies is relatively high. In Argentina, Costa Rica, Ecuador, El Salvador and Guatemala, the market access in the insurance field is completely restricted. In the majority of the other countries, the establishment of wholly-owned subsidiaries and of branches by foreign insurers is indirectly restricted, being subject for example to the suspension of new authorisations by referring to prudential reasons. Joint ventures are nevertheless admissible in all Latin-American countries (with the exception of Costa Rica), usually without a maximum limit for the foreign participation.

To date, foreign penetration of the insurance market in the CEEC and NIS countries has been mostly by way of equity participation. Joint ventures with foreign equity participation are allowed in all countries. To protect their markets, countries set a limit on participation. The foreign equity share is restricted to 49 per cent in Belarus, Russia and Ukraine. In Poland and Hungary, being OECD Member countries, branches and agencies of foreign companies have already been authorised since 31 December 1998 and 31 December 1997 respectively. Besides, Romania allows foreign insurers to set up branches, but in this country, foreign company branches may write insurance only with foreigners. Romania and Slovenia do not allow wholly foreign-owned subsidiaries. In principle, in the CEEC and NIS countries, the existing restrictions on the establishment of foreign companies are due to be relaxed somewhat. In Bulgaria, for example, majority foreign-owned joint ventures and wholly foreign-owned subsidiaries are authorised as from March 1998.

3. ON-GOING SUPERVISION OF DIRECT INSURANCE COMPANIES

3.1. Principles and Procedures

In all OECD Member countries, Latin-American countries, Asian economies and the CEEC and NIS countries, insurance companies are subject to on-going supervision. The conditions under which the license was granted must be observed the whole time the insurance company is carrying on business. In almost all countries studied, to perform their task, the supervisors usually have the right to ask for any information necessary in order to verify compliance with requirements binding licensed insurance companies, to require financial reports and to perform on-site inspections at the head office of domestic insurance companies.

3.1.1 Accounting Requirements

Traditionally, insurance supervisors have required insurers to submit accounts different from those prepared under the law for the purpose of informing the shareholders or the public. In most OECD Member countries, the domestic direct insurers have to submit for approval an initial balance sheet and a statement of prospective income. All countries require insurers to keep accounts and submit financial statements that conform to accounting principles. These principles are not yet fully harmonised throughout the OECD area. Since 1991, the EU countries have been following Directive 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings. This means that insurance companies in all EU countries have to establish their balance sheets and profit and loss accounts in a harmonised way. Most of the Asian economies and Latin-American countries have adopted principles specific to insurance (Brunei, Hong Kong, Laos and Sri Lanka, Bolivia, Chile, Cuba, Honduras and Panama do not report adoption of such principles). A number of the CEEC and NIS countries (Bulgaria[4], Croatia, Estonia, Latvia, Russia, Slovakia and Slovenia) have introduced accounting rules in line with the European directive on insurance accounting; others have developed their own systems. Six economies (Albania, Armenia, Belarus, Lithuania, Republic of Moldova and Romania) do not yet have insurance-specific systems and apply the same accounting principles as for other sectors of business. Albania, Lithuania and the Republic of Moldova are trying to introduce insurance-specific systems, however.

3.1.2 Reporting

The most important part of the ongoing supervision is the financial supervision. In this respect, the supervisors have an close eye on the capital resources (solvency), the formation of technical provisions, and the existence of assets (investments) necessary to meet the insured liabilities. To be able to perform its tasks in this field, the supervisory authorities in all countries have the right to obtain detailed information about the insurers activities and financial situation. In all countries studied, insurance companies are required periodically to submit a financial report at least once a year (annual report) usually holding the annual accounts (balance sheet, profit and loss accounts, additional notes), an annual statement of the solvency margin, and statements concerning premium income due, losses, reserves, assets etc. In some countries of the four regions studied (Czech Republic, Denmark, Finland, Hungary, Iceland, Ireland, the Netherlands, Portugal, Switzerland, Philippines, Laos, Bulgaria, Russia, Panama) it seems that insurance companies only have to submit the annual report. In other OECD Member countries as well as in the majority of Asian economies (Brunei, Hong Kong, Indonesia, Macau, Malaysia, Singapore, Sri Lanka)

4. In Bulgaria, accounting principles are only partially harmonised with EU-15 directive for Annual Account of the Insurance Undertakings.

and in almost all Latin-American countries, the annual report is supplemented by a quarterly report. Vietnam refers to a quarterly report only. Monthly returns are required in Japan (business conditions reports), Korea (statement of assets), in Chinese Taipei and in Thailand as well as in Albania (loss-ratio reports), Romania (third party motor insurance), Poland and Latvia, Argentina (outstanding claims), Bolivia (claims information), Brazil, Ecuador, El Salvador, Guatemala (investment breakdown), Honduras, Nicaragua, Peru, Uruguay (liquidity ratio) and Venezuela.

3.1.3 General Policy Conditions and Premium Rates

Only a few OECD Member countries (Czech Republic, Japan, Korea, Mexico, Poland, Switzerland, and the United States) require of domestic as well as foreign direct insurance companies the submission for approval of general policy conditions. In many OECD Member countries, the supervisory authority requires insurance companies to submit specifications of their methods of calculating premium rates. But only in some countries, these specifications have to be approved, this being the case e.g. in Australia, Switzerland and Turkey. In the EU Member countries, neither the approval nor the systematic submission of general policy conditions may be requested. In former times there were countries (United Kingdom and the Netherlands) with no or insignificant control in the field of tarification, and countries with a strong control (France, Germany, Italy). With the harmonisation under the third generation of Insurance Directives came the almost complete abolition of the prior approval of premiums and tariffs. The only exceptions are general policy conditions for compulsory insurance and for supplementary health insurance (as in the case of Germany), which Member countries may demand for submission prior to their application but not for approval. In all cases, technical bases of calculation regarding premiums and technical provisions must nevertheless be produced. In certain OECD countries, premium rates and products are supervised at least for some risk classes (e.g. for compulsory insurance), as in Belgium, the Czech Republic, Hungary, Japan, Luxembourg (not systematically) or Turkey. In Asian economies – with the exception of Brunei, Hong Kong and Indonesia – premium rates and policy conditions for new products are checked. In Macau, only compulsory insurance is concerned. In Vietnam, compulsory classes of insurance and the insurance of person are subject to supervision of premiums and policy conditions. In Malaysia, three classes (motor, fire, and workmen's compensation) are governed by tariffs that set the standard minimum rates and life insurance is subject to "file and use". In Singapore, the supervisory authority's approval is required only for life insurance products. In all CEEC and NIS countries, premium rates and policy conditions are supervised. In many cases this supervision is not exhaustive. There is a great need to improve the arrangements for supervising premium rates and policy conditions in these economies. The adequacy of premium rates is a fundamental issue. But tariff calculation depends of the availability of reliable data on loss frequency and loss severity. In states with former monopolistic structures new databases had to be established (first using probable assumptions) after introduction of market-oriented systems. Hence, OECD Member countries like the Czech Republic and Hungary have been well advised to ask for submission of premiums and products for approval. CEEC and NIS countries also often ask for submission of the premium rates and general insurance conditions.

In all Latin-American countries, the insurance supervisory authority supervises the policy conditions of new products. In seven countries (Argentina, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Venezuela), policy conditions are subject to prior approval. In Chile, policy conditions must be registered with the insurance supervisory body. In Colombia, insurance companies are free to send to the supervisory body a copy of policy conditions either before or after they start to use them, although it is advisable to send it before using them. The supervisory body can check them at any moment, and in the case of abusive clauses can suspend the sale of such products. In Paraguay, registration with the supervisory body is required.

In most Latin-American countries, the supervision on premium rates is less intensive than that on policy conditions. Five countries (Bolivia, Chile, Panama, Paraguay and Uruguay) report that premium rates are not subject to supervision. In Bolivia, Paraguay and Uruguay the determination of premium rates is free, except for life insurance which is based on a technical basis. In four countries (Argentina, Honduras, Nicaragua and Venezuela), premium rates are subject to prior approval. In Guatemala, for life insurance, premium rates are fixed by the supervisory body. Insurance companies have to obtain approval for any modification which they wish to introduce. For compulsory classes of insurance, policy conditions and premium rates are determined by the supervisory authority in Brazil and Colombia.

3.1.4 On-site Inspection

The areas usually covered by on-site inspection are:

- accounting and the extent of the company's business activities, including reinsurance ;
- compliance with the standards prescribed for insurance business ;
- internal organisation of the company.

In nearly all countries, the supervisory authority has the right to perform on-site inspections at the head office of domestic insurance companies. These inspections may be conducted periodically, on a case-by-case basis, or when circumstances demand it. Most OECD countries – with the exception of Australia, Luxembourg, Mexico and the United Kingdom – allow on-site inspections at branches of foreign companies.

Few OECD countries prescribe regular on-site inspections. Mostly the frequency varies. The exceptions are Australia (every three years), Canada (every two years at least), the Czech Republic (every year), Finland (one to three times a year), Korea (once every two years), Mexico (every year), Norway (every three to four years), Sweden (once every three years), Switzerland (once every four years) and the United States (once every five years). In the majority of Asian economies, excluding Brunei and Sri Lanka, on-site inspection is carried out, though with variable frequency. The frequency of on site-inspection also depends on the seriousness of the situation (Macau). In most of the CEEC and NIS countries there is on-site inspection too. Cases in point are Albania, Armenia, Belarus, Croatia, Estonia, Latvia (at least once every three years), Romania, Russia and Slovenia. In all Latin-American countries, on-site inspection is carried out, the timing and the frequency of them is in most countries dependent on certain situations, although some degree of periodicity is related: at least once a year in Chile, Ecuador, El Salvador, Honduras, Nicaragua and Peru; once every three years in Brazil and Uruguay.

3.2. Solvency Supervision and prudential rules

3.2.1 Solvency Supervision

In all OECD Member countries, the minimum capital required as condition for licensing must be available the whole time the company is carrying on business. Several countries require that the capital has to be permanently adapted to the development of the business.

Solvency (i.e. financial resources in the amount of the difference between assets and liabilities and with the aim to absorb discrepancies between the anticipated and the actual expenses and profits) is of great concern in all countries studied. Not only in EU Member countries (according to the EEC Directives of 1973 and 1979) but in other OECD countries too (with the exception of Australia, Canada, Japan and the United States), the method of assessing solvency rests on the principle of a solvency margin. Within the EU, in non-life insurance, the solvency margin must equal the greater of two ratios: 16 per cent of gross premiums due, adjusted for reinsurance ceded up to a maximum of 50 per cent, or 23 per cent of the average claims burden over the past three years, adjusted by a post-reinsurance rate of up to 50 per cent (i.e. the ratio of net claims to gross claims). In life insurance, the minimum margin is based on ratios involving mathematical reserves gross of reinsurance (4 per cent) and capital at risk or premiums due (0.3 per cent).

To determine whether a company covers its solvency margin, the following components are aggregated:

- the paid –up share capital,
- one half of the unpaid-up share capital once 25 per cent of such capital are paid in,
- the statutory and free reserves,
- any carry-.forward of profits,
- hidden reserves resulting from the under-estimation of assets,
- securities with a fixed maturity which are subject to special conditions up to 50 per cent,
- in non-life insurance additionally 50 per cent of the supplementary contributions which mutual societies may require their members to pay in a particular financial year,
- in life insurance additionally the part of the provisions for bonuses and rebates which has not yet been made available for distribution to policyholders, 50 per cent of the company's future profits, to a certain extent the acquisition coats included in the premiums as far as they have not been taken into account in the mathematical provision.

In the United States, another method, the risk based capital (RBC), was introduced. This method is being used by Australia (in life), Canada, Japan and the Netherlands (besides the solvency margin) as well and will be introduced in Indonesia. This concept seeks to evaluate a great number of different risks and takes the investments as actual risk carriers. To determine an insurer's RBC, its business data are compared to industry averages for the different classes. Certain thresholds are introduced to enable the supervisory body to intervene at an early stage.

All Asian economies and Latin-American countries (with the exception of Costa Rica and Honduras) have adopted solvency requirements for insurance companies. In some Asian economies (Hong Kong, Malaysia, the Philippines and Thailand; Macau and Singapore for non-life business only), the solvency margin has to reach at least a certain fixed amount, which is applied in case the result of stipulated calculation does not exceed such an amount. In some Asian economies (Brunei, Indonesia, Laos and Sri Lanka; Macau, the Philippines and Thailand, for non-life business only), the solvency margin is based on premium income only, typically as a certain percentage of net premium income for the previous year (20 % in Brunei, 10 % in the Philippines, Sri Lanka and Thailand). In some Latin-American countries, the solvency requirements are based on or similar to those of the EEC directives (Argentina, Colombia, Guatemala, Nicaragua, Paraguay and Hungary). Brazil, where solvency rules are applied only for non-life insurance, reports a concept of “net worth”, adjusted by deducting the assets which do not represent available values.

Most of the CEEC and NIS countries have introduced solvency requirements based more or less on the European directives. Only Albania, Belarus, Moldova and Romania have their own measures concerning the solvency margin: in Belarus, insurance companies have to maintain a specified ratio of assets to technical provisions. In Romania the regulations require that the amount of gross premium income due does not exceed five times the paid-up capital plus reserves.

3.3.2 Technical Provisions

Technical provisions ensure that the company is in the position to meet at all times the commitments towards the insured. All OECD countries have regulations for the calculation and setting-up of technical provisions and exercise appropriate supervision, which may be a priori or a posteriori or both. Eleven OECD countries – Belgium, Denmark, Finland, France, Iceland, Mexico, Netherlands, Norway, Sweden, Switzerland and Turkey – have reported a posteriori supervision only. Within the EU, according to the Directives, only the home country is responsible for setting the rules and supervising the compliance with the rules concerning technical provisions. In practice the regulations apply to mathematical reserves in the case of life insurance, and, inter alia, provisions for unearned premiums, claims outstanding and claims incurred but not reported (IBNR) in the case of non-life insurance. An equalisation reserve as a valuation adjustment in non-life insurance is common among several OECD Member countries (but not in Australia, Mexico, Turkey and the United States).

All Asian economies, except Brunei, have adopted principles or guidelines concerning the setting-up or calculation of technical provisions. In the case of life business, it is most often referred to “mathematical reserves”. For non-life business, they refer largely to “unearned premium reserves”, “unexpired risks reserve” and “claims reserves”. Vietnam refers to an equalisation provision for non-life business. Macau refers to a “loss ratio variation reserve” for credit insurance only.

With the exception of Honduras, all Latin-American countries have adopted principles or guidelines related to the setting-up or calculation of technical provisions. In the case of life business, it is most often referred to as “mathematical provisions”. For non-life business, “provisions for unearned premiums” and “provisions for outstanding claims”, including “incurred but not reported (IBNR)”, are referred to by most countries. Only Peru refers to “provisions for unexpired risks”, which are constituted in case provisions for unearned premiums are insufficient. Eight Latin-American countries refer to “equalisation reserve” or “catastrophic reserve” or “contingency reserve”.

CEEC and NIS countries often made the experience of inadequate technical provisions because of the lack of historical data for calculation, an unstable rate of inflation and the underdevelopment of actuarial systems. Lithuania and Slovenia expressly refer to EU standards. However, in the majority of cases, even if countries do have legislation on technical provisions, the rules are not always sufficiently precise and supervision may be inadequate.

This is particularly serious in that inadequate supervision of technical provisions may compromise a company’s solvency and the security of its policyholders.

3.2.3. Investments

Most national legislations contain specific provisions concerning insurance companies' investments and rules have been laid down for portfolio composition and spread; there are detailed rules for the choice of assets representing the technical provisions. In some countries there are also rules regarding assets covering other liabilities as well (e.g. Iceland, Italy, Japan, Norway, Turkey and the United States).

3.2.3.1 Principles

All countries, except Brunei and Cuba have regulations concerning investments by insurance companies. In many OECD Member countries, prudential investment rules with respect to diversification by type, limits or restrictions on the amount being held in certain assets, matching of assets and liability, and liquidity are known.

3.2.3.2. Ceilings and Floors

Two different approaches are known: quantitative restrictions on investment choice and the "prudent person" management. The last approach where on the managerial skills and expertise is relied on, is in favour, for example, in the United Kingdom and the United States. Within the EU, quantitative restrictions are fixed in the EEC directives of 1992. The ceilings on individual types of assets are the following:

(In % of technical provisions):

- 10 % in any one piece of land or building or a number of pieces of land or buildings close enough to each other to be considered as one investment ;
- 5 % in shares and other negotiable securities treated as shares, bonds, debt securities and other money and capital market instruments from the same undertaking;
- 1% for an unsecured loan;
- 5% for all unsecured loans;
- 10% in shares, other securities treated as shares and debt securities which are not dealt in on a regulated market.

In Asian economies, investment regulations stipulate a set of maximum (and/or minimum) limits on certain categories of investments, in most cases together with admissible (and/or non-admissible) investments.

Such regulations can be classified into the following three types:

i. a set of maximum limits associated with the solvency assessment purpose (in Hong Kong, Singapore and Malaysia) – Insurers may invest beyond the prescribed limits, but assets in excess of the maximum limits are non-admitted for the purpose of determining solvency margin.

ii. a set of maximum limits not associated with the solvency assessment purpose (in Laos, Macau, Vietnam, Thailand and Chinese Taipei).

iii. a limited number of maximum limits – In the Philippines, the maximum limits are observed in relatively limited aspects such as investment in housing project (25% of total admitted assets), investment in real property (25% of total admitted assets) and investment in any single institution (10% of total admitted assets). These maximum limits are also not connected with the solvency assessment purpose.

In the CEEC and NIS countries, assets representing the technical provisions are likewise strictly regulated, in Croatia, for example, at least 30 per cent of the mathematical reserves has to be invested in state bonds.

No Latin-American country adopted "prudent person" rules. The legal provisions concerning investments by insurance companies stipulate most typically admissible investments and a set of maximum and/or minimum limits on certain categories of investments. In Guatemala at least 40% of total assets have to be invested in government securities, and at least 1% of total assets have to be invested in deposits on demand/term (the rest of up to 59% of total assets can be invested in real estate, shares, mortgage loans and other securities). In Venezuela, not less than 30% of mathematical reserves have to be invested in public securities guaranteed by the nation, regional entities, municipalities, foreign governments (issued in Venezuela's currency) or Latin-American public companies. In some Latin-American countries, the proportional weight of investments other than real estate, shares, bonds and loans in total investments is very high, in particular compared with that of the biggest insurance markets in the OECD. In nine Latin-American countries (Argentina, Bolivia, Chile, Columbia, Cuba, El Salvador, Honduras, Paraguay and Peru), the weight of "other investments" exceeds 40%. This situation has more to do with the structure of capital markets in these countries than their respective investment regulations.

3.2.3.3. Currency Matching

Almost all OECD countries have a currency matching requirement. The required percentage of currency matching applicable to technical provisions is 80 per cent in most OECD countries and 100 per cent in Canada, Finland, Turkey and the United States. Only Japan and Korea have no currency matching requirement. Currency matching is not generally required in Asian economies, in Latin-American countries and by the CEEC and NIS countries. In Asian economies, only Hong Kong refers to a currency matching requirement. A currency matching requirement exists in Uruguay and a maturity matching requirement in Peru.

3.2.3.4. Localisation

A few countries, notably in the OECD area, have regulations concerning the localisation of assets. Ownership titles, stock certificates and the like generally have to be located in the country where business is transacted; this requirement applies in Australia, Belgium, Denmark, Finland, France, Germany, Luxembourg, the Netherlands, Norway, Portugal, Switzerland, Turkey (non-life) and the United

Kingdom. The assets themselves may be required to be located in the country (in any EU country in case of the EU); this requirement applies in Belgium, the Czech Republic, Finland, Germany, Hungary, Italy, Korea, Mexico, Poland, Spain, Sweden, Switzerland and Turkey (life). In Asian economies, only Hong Kong refers to the existence of localisation requirement (for non-life insurers, excluding captive insurers and professional reinsurers). In Argentina, investment instruments of insurers must be deposited in the custody of banks with a rating of AA or better. These banks must report on a monthly basis to the National Insurance Superintendence details of movements in the portfolio of each insurer. Investments not kept in such a custody cannot be regarded as assets supporting the minimum capital and the commitments with the insured.

3.2.3.5. Foreign Investments

In some OECD countries, funds representing the technical provisions must not be invested abroad – this is the case with Australia, the Czech Republic, Hungary, Iceland (in life), Mexico and Turkey – or else only within very strict limits. Some countries set upper limits on foreign investment: Japan 30 per cent on investment in assets denominated in foreign currency, Korea 10 per cent of total assets, Germany between 5 per cent and 20 per cent depending on the foreign assets concerned. In Sweden only 20 per cent of the technical provisions may be invested in foreign securities, and in Poland no more than 5 per cent. Other countries – Mexico and Switzerland – regulate foreign investments by investment category. In other OECD countries, insurance companies are authorised to invest abroad without any limit. In EU countries insurance companies may invest without restriction in other EU countries. Some of the Asian economies (Hong Kong, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei) allow in principle investments abroad while in other Asian economies (Indonesia, Laos, Sri Lanka, Thailand and Vietnam), portfolio investments abroad are not allowed or strictly restricted.

In Latin-American countries, portfolio investments abroad are either prohibited (Cuba, Guatemala) or subject to various limitations, from 10% to 30% of technical provisions, included or not included minimum capital required. In Venezuela, such investments are allowed without any maximum limits. In Paraguay, the permission of the supervisor has to be obtained in each case. In Brazil, the maximum limit depends on the liabilities in foreign currencies.

The CEEC and NIS countries, except Slovenia and Moldova, authorise investment abroad but with restrictions. In Belarus only up to 10 per cent of total assets may be invested abroad, in Russia only up to 20 per cent while in Lithuania, the same ceilings are valid for foreign investments as for national investments. In Estonia, restrictions on investment abroad were abolished in June 1999.

3.2.3.6. Investment valuation

Methods of valuing the investments held as counterparts of the technical provisions differ according to country. In some countries, insurance companies evaluate investments in principle by using their current market price: Australia, Denmark (non-life business), Luxembourg, Mexico, Portugal, Spain, Turkey, United Kingdom, Indonesia, the Philippines, Thailand, Belarus, Croatia, Lithuania, Slovenia, Argentina, Chile, Colombia and Uruguay.

In other countries, the supervisory authority requires insurance companies to apply the principle of the lower of historical cost or market value: Belgium, Denmark (life), Finland, Germany (life), Iceland, Italy (life), Netherlands, Norway, Poland (life), Sweden, Malaysia, Singapore, Chinese Taipei (for shares), Croatia, Latvia, Slovenia, Brazil, Nicaragua, Panama, Peru, Venezuela. Finally, some countries require investments to be valued at historical cost: Czech Republic, France, Germany (non-life), Hungary, Italy (non-life), Japan, Korea, Poland (non-life), Laos, Macau, Chinese Taipei (for bonds), Estonia, Slovakia and

Guatemala. Four Asian economies – Brunei, Hong Kong, Sri Lanka and Vietnam – and three Latin-American countries – Costa Rica, Cuba and Honduras – have no legislation on investment valuation.

3.2.4 Reinsurance Arrangements

In most OECD countries, companies have to submit a reinsurance plan and /or reinsurance contracts to the supervisory authority. Reinsurance arrangements have to be approved in some countries such as Australia, Germany, Italy, Japan, Luxembourg, Mexico, Poland, Sweden, the United Kingdom, and the United States. They are submitted only for information in Belgium, the Czech Republic, Finland, France, Iceland, Norway, Portugal, Spain, Switzerland and Turkey. As for Asian economies, four economies (Macau, Malaysia, the Philippines and Singapore) refer to regulation or supervision on reinsurance arrangements. Among the CEEC and NIS countries, this applies in Belarus, Bulgaria, Slovakia and Ukraine. All Latin-American countries, except Chile, Costa Rica and Cuba, report the existence of the regulation or supervision on reinsurance arrangements of direct insurers.

3.3 Actuaries

In almost all OECD countries and Asian economies (with the exception of the Czech Republic, France, Switzerland, Brunei, Laos and Vietnam) insurance companies are required by law to appoint actuaries. In some countries (Australia, Denmark, Italy, Luxembourg, Netherlands, Sweden, Turkey, the United Kingdom, Hong Kong, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Thailand) only life insurance companies (and composite insurers) have to appoint an actuary. In eight Latin-American countries (Argentina, Bolivia, Brazil, Colombia, El Salvador, Nicaragua, Panama and Venezuela), the appointment of an actuary is obligatory – such obligation applies to life insurance companies only in Bolivia, Colombia, El Salvador and Panama. Little information is available concerning the actuarial profession in the CEEC and NIS countries. Albania, Belarus, Bulgaria, Croatia, Lithuania, Romania, Slovakia and Slovenia refer to actuaries monitoring the technical provisions. In Bulgaria, Croatia, Estonia, Lithuania and Latvia the presence of a qualified actuary is also required in life insurance companies for the calculation of premium rates and technical provisions. The rule in all countries (except Australia, Czech Republic, France, Japan, Switzerland, Brunei, Laos, Macau, Vietnam, Chile, Colombia and Nicaragua) is that actuaries have to possess a minimum professional qualification in order to practise. In OECD countries, very often this is represented by a diploma and in the Asian economies by membership of foreign professional bodies. Actuaries may have to fulfil further requirements. In some countries they have to be independent of the insurance company. This is the case in Australia, Iceland, Italy, Mexico, Norway, Turkey, United States, Panama and Venezuela. Evidence of competence and reputability ("fit and proper") is required in Belgium, Denmark, Germany, Hungary, Italy, Japan, Korea, Luxembourg, Norway, Poland, Turkey and the United States; an age requirement has to be met in Hungary (at least 27 years of age), Norway (under 70) and the United Kingdom (at least 30).

In practically all countries – the exceptions being the Czech Republic, France, Switzerland, Brunei, Laos and Vietnam- actuaries have statutory duties. In most countries the principal tasks of an actuary are to calculate the technical provisions and/or value policy liabilities. Other duties are, for example: actuaries have to advise the management (Belgium), to monitor solvency (Denmark, Finland, Germany, Italy, Korea, Luxembourg, Mexico, Netherlands, Norway, Sweden, Turkey, United Kingdom, United States, Hong Kong, Macau, Singapore, Thailand), to certify the correctness of premium rates and technical provisions (Hungary, Iceland, Korea, Poland, Macau, Argentina, Bolivia, Brazil, Colombia, El Salvador, Nicaragua, Panama and Venezuela), and to submit the relevant information, certified as valid, to the supervisory authority (Belgium, Denmark, Germany, Hungary, Iceland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, Norway, Portugal, Spain, Turkey, United Kingdom, United States). Actuaries may also have to perform other more specific tasks such as valuing the reserves for policyholders, monitoring the distribution of surplus to policyholders (Japan, Malaysia, Singapore) or designing products (Indonesia and Malaysia). In most OECD countries, actuaries are required to co-operate with the supervisory authorities.

3.4 Auditors

An auditor is required to check whether both bookkeeping and annual accounts are in line with the rules of the country concerned and to give an opinion of the company's present financial situation. In most countries, the financial statements – at least the annual accounts – have to be examined by an auditor. After the audit, the correctness of the documents has to be certified. The profession is legally recognised and regulated in all OECD countries. The appointment of an auditor is mandatory, except in Japan, Switzerland and Vietnam, and auditors must possess recognised credentials in order to practise: e.g. a diploma from an organisation of accountants for the OECD countries (not regulated in Korea and Switzerland). Little information is available on the CEEC and NIS countries in this respect.

Auditors may have to fulfil a certain number of other conditions in order to practise. In the great majority of OECD countries – exceptions being Finland, France, the Netherlands and Switzerland – auditors usually have to be independent of insurance companies. Like actuaries, auditors have to produce evidence of competence and reputability. In a number of OECD countries an auditor is required to take out third party liability insurance. This rule applies in Australia, the Czech Republic, Germany, Hungary, Iceland, Luxembourg, Portugal and SpainIn most OECD countries, auditors maintain formal relations with the insurance supervisory authorities (except in the Czech Republic, France, Hungary and Italy). In Denmark, Iceland, Mexico, Poland, Sweden and Switzerland, only state-appointed auditors have to co-operate with the supervisory authority.

In all Latin-American countries, the appointment of an auditor is obligatory. In four countries (El Salvador, Honduras, Nicaragua and Peru), insurance companies have to appoint both external and internal auditors. Internal auditors are employees of insurance companies. The main duties of internal auditors are very extensive, including in particular the evaluation of internal control system and the evaluation of compliance with legal provisions applicable to insurance companies. The internal auditor system may reinforce the prudential supervision of insurance companies. Concerning the external auditor, eight countries (Argentina, Bolivia, Chile, Colombia, El Salvador, Honduras, Uruguay and Venezuela) report that auditors have to be registered with the insurance supervisory body, and three countries (Colombia, El Salvador, Peru) refer to a special duty of an auditor to report to the supervisory authority irregularities of an audited company. In Brazil, the supervisory authority may request further information from an auditor.

4. REGULATION AND SUPERVISION OF REINSURANCE COMPANIES

The reinsurance market has been extensively liberalised in the OECD countries, although certain restrictions still apply. In Australia, for example, foreign reinsurers have to be registered with the supervisory authority under the 1945 legislation on life insurance. Foreign reinsurers are therefore required to set up a statutory fund. In Japan, 60 per cent of compulsory third party motor insurance has to be ceded to the State. In Turkey, there is compulsory ceding to a private company (MILLI REASURANS T.A.S.): non-life insurers are required to cede 15 per cent of insurance other than third party motor liability insurance and 10 per cent of every motor insurance policy. These compulsory cedings will be abolished in 2001. In Canada, there is no compulsory ceding. However, a Canadian insurer, other than a life insurer or reinsurer, may reinsure with a non-resident reinsurer for no more than 25 per cent of the risk underwritten. In Iceland, fishing fleets of over 100 tons have group insurance managed by a reinsurance company. All Asian economies allow cross-border reinsurance transactions. In Malaysia such transactions are admissible after local reinsurance capacity has been used. In the Philippines, cross-border reinsurance has to be transacted through a resident agent registered with the supervisory authority. Five Asian economies (Malaysia, the Philippines, Sri Lanka, Chinese Taipei and Vietnam) report existence of domestic retention requirement. In CEEC and NIS countries, regulation regarding reinsurance business as exists differs from country to country, but there are still many limitations on market exposure. Some of the CEEC and NIS countries do not regulate reinsurance business (e.g. Slovakia), while others regulate it in the same way as direct insurance (Croatia and Slovenia). One of the reasons for this apparent neglect is that in these economies reinsurance business is in its first stages of development and the supervisory authority, and the insurance companies themselves, are inexperienced in this area. Even so, the reinsurance market seems relatively open in the CEEC and NIS countries, since in practically all of them foreign reinsurers are authorised to do business subject to certain conditions. However, a number of countries have domestic retention requirements. The restriction most frequently mentioned is that reinsurance can be placed abroad only when local reinsurance capacity has been used. In Belarus, the Republic of Moldova, Romania and Slovenia, reinsurance must first be offered to domestic companies. In Croatia, an insurance company may cede business abroad only if the terms offered by the foreign reinsurer are more favourable than those offered locally. Even in this case the foreign reinsurer must offer part of the surplus risk to a domestic reinsurer to the extent of the latter’s capacity.

In all of the seven Latin-American countries where they exist (Argentina, Brazil, Chile, Colombia, Ecuador, Panama and Venezuela), reinsurance specialists are regulated or supervised. All Latin-American countries allow cross-border reinsurance transactions. Nine Latin-American countries (Argentina, Bolivia, Chile, Colombia, El Salvador, Guatemala, Paraguay, Peru and Venezuela) report the existence of a registration system for foreign reinsurers. In four countries (Chile, Colombia, El Salvador and Guatemala), foreign reinsurers have to be registered with the insurance supervisory body. In Brazil, the Brazil Resseguros S.A. (IRB) basically monopolise reinsurance operation in this country, although direct insurers can contract abroad in specific cases with the special permission of the supervisory body. After the opening-up on 25 July 2000 of its reinsurance market, insurance companies will have to retain 50% of their whole operations. Besides, for the first two years after the opening-up of the Brazilian reinsurance market, insurance companies must offer 60% of their reinsurance cessions to local reinsurers. If refused, the company may choose with whom it will contract, admitted or occasional reinsurers, with the limit of 10% on occasional reinsurers (both admitted and occasional reinsurers are foreign reinsurers doing cross-border operations). In some other Latin-American countries, the maximum retention limits are stipulated.

5. INSURANCE COMPANIES IN FINANCIAL DIFFICULTIES

5.1. Measures prior to Liquidation

In most countries, it is generally accepted that supervisory authorities should try everything to prevent an insurance company to go bankrupt. Various countries reported the existence of so-called early warning systems (all OECD Member countries except Japan, Luxembourg and Poland, and Malaysia, Singapore and Thailand) but these systems lack of specific guidelines that systematically indicate what kind of measures could or should be taken in what circumstances (for example, some countries only point out that the exact measures to be taken depend on the circumstances of each case). In some Latin-American countries, the adoption of an early warning system is currently under study (Colombia, Nicaragua, Peru, Uruguay). Usually, the supervisors use the reports and returns they get under the ongoing supervision, and the information assembled by the examination of accounts and the solvency margin to find out about the financial situation of the respective company. Recovery plans, established either by the insurers or by the supervisors, are known in the majority of OECD Member countries (besides being standard in EU countries) and the Asian economies. In most of the CEEC and NIS countries, too, there are measures to protect policyholders in the event of liquidation or bankruptcy of an insurance company. In Latin-American countries, the following measures are possible, for instance, the prohibition of underwriting new contracts, the prohibition of the free disposal of assets or reinsurance arrangements. However, the interests of policyholders are not always safeguarded sufficiently, since the financial difficulties of companies may be taken into account too late. Almost all OECD countries (exceptions being Mexico, Turkey and the United Kingdom) grant insurance companies in financial difficulty the right to transfer their portfolio of policies, but only with prior authorisation by the insurance supervision body. The latter has to make sure that the company accepting the portfolio possesses the necessary solvency margin after taking the transfer into account. Policyholders have to be informed of portfolio transfer and (in some countries) have the right to oppose it or even to terminate their contracts.

In six Asian economies (Hong Kong, Indonesia, Laos, Macau, Singapore and Thailand) and in thirteen Latin-American countries (Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Nicaragua, Paraguay, Peru, Uruguay, Venezuela), the organisation of portfolio transfers by the supervisory body is feasible before the actual bankruptcy of an insolvent insurance company.

5.2. Policyholder Protection Funds

In several countries in the regions studied, safety nets are designed to protect policyholders against losses from insolvent insurers, notably for the high-risk insurance classes. Common are general compensation funds guaranteeing the payment of claims up to a certain limit. In the United States, for example, all States have insolvency guarantee funds for property and casualty insurance. In life insurance, policyholder protection funds have been reported by Korea, the United Kingdom and the United States. In the majority of Asian economies (except Sri Lanka, Thailand and Vietnam), there exist policyholder protection funds (in Brunei, Indonesia and Laos, statutory deposit can function as policyholders' protection funds). In some economies, only limited classes of insurance such as compulsory lines are covered. In three Asian economies all classes of insurance are covered. The scope of coverage is different among these three economies: in Malaysia, up to 90 % of the admitted claim amount, in the Philippines up to 20,000 pesos and in Chinese Taipei full compensation.

Widespread among the countries are funds being part of compulsory motor third party liability insurance for the benefit of motor accident victims, either in case the responsible driver cannot be identified, or in the case the responsible driver is not insured, or in the case of the insurer of the driver being insolvent. Under these funds, claims usually are paid in full without any reduction. Sixteen OECD countries (Belgium, Finland, France, Germany, Italy, Korea, Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Switzerland, Turkey, United Kingdom, the United States), and eight CEEC and NIS countries (Albania, Belarus, Bulgaria, Croatia, Estonia, Latvia, Romania, Ukraine) have introduced guarantee funds for motor vehicle insurance.

In fifteen Latin-American countries, there exists no policy holder protection fund. Such funds only exist in Argentina and Colombia, but they cover pension (retirement) and workers' compensation only.

5.3. Liquidation

The rules concerning liquidation of insurance companies differ widely among the countries studied. In general, liquidation is the winding up of the entire business of a company. The company remains under supervision until the liquidation is terminated. The rules differ already in respect of who is entitled to file for liquidation: the insurance company (as for example in the majority of OECD Member countries), other creditors, and/or the supervisory authority (in Austria, Germany and Switzerland, only the supervisory authority may file a petition in bankruptcy). In most OECD countries, the decision to wind up the company is with the competent court and a liquidator is appointed.

There are more differences in the order of priority of creditors, in particular in respect to assets representing technical provisions. Although there are privileges for policyholders in all OECD countries, their creditor ranking in the liquidation procedure varies widely from country to country. In general, policyholders have more privileges in respect of assets representing the technical provisions than for the total assets of a company. Insured holding claims under a life insurance are always given priority in the distribution of the assets representing the mathematical provision. In Asian economies, only five countries – Hong Kong, Indonesia, Laos, Macau and Singapore – and ten Latin-American countries – Argentina, Colombia (compulsory insurance), Chile, Ecuador (life insurance), El Salvador, Nicaragua, Panama (individual life annuity), Paraguay, Peru and Venezuela – report the existence of preferential status for policyholders in the liquidation procedure.

In the CEEC and NIS countries, it doesn't seem to exist any regulatory provision protecting the interests of policyholders in the liquidation procedure in Moldova and in Russia.

6. OTHER ITEMS

6.1. Compulsory Insurance

In general, compulsory insurance seems advisable in classes that are more closely related to social questions, where the risk exposure is high, and where premium payments should be divided on an equitable basis among the public. With the exception of motor third party liability, the number of compulsory insurance differs from country to country. All OECD Member countries, Asian economies [5], eight Latin-American countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Nicaragua and Venezuela) and CEEC and NIS countries (except Lithuania and Russia), have introduced compulsory motor third party liability insurance. Direct action by a third party in respect of compulsory motor insurance is permitted in all OECD countries except the Czech Republic, Mexico, Poland, the United Kingdom and the United States. Tariffs for compulsory classes of insurance are supervised in only one-third of the OECD countries: Australia, Belgium, Czech Republic, Hungary, Japan, Korea, Spain, Sweden, Switzerland and Turkey. In some Asian economies specific conditions have to be fulfilled by insurers writing compulsory insurance. In Hong Kong, higher amounts of minimum capital and solvency margin are required from non-life insurers carrying on compulsory classes. In Malaysia, the industry has established the Malaysian Motor Insurance Pool to guarantee the availability of motor insurance cover. In the CEEC and NIS countries, premiums and policy conditions for motor third party liability insurance are generally set by the government (e.g. in Croatia, Estonia, Latvia, Romania, Slovakia, Slovenia). In three Latin-American countries (Argentina, Bolivia and Chile), the insurance supervisory body or the law determines the policy conditions of some classes of compulsory insurance. In two countries (Brazil and Colombia), the supervisory authority determines not only the policy conditions but also the premium rates of compulsory insurance.

Life insurance is compulsory in a few countries and only for certain categories of persons: in Mexico for members of the government, in Hungary for fire-fighters, in Italy for private-sector workers in dangerous occupations and for experts and social service volunteers who co-operate with developing countries, in Argentina for the State personnel, rural workers and fishing boat crew, and in Uruguay for pension insurance. Accident insurance (mostly workers compensation or public transport) is compulsory in sixteen OECD countries – Australia, Belgium, Canada, Denmark, Finland, France, Germany, Hungary, Iceland, Italy, Korea, Mexico, Norway, Poland, Switzerland and Turkey – six Asian economies – Brunei, Hong Kong, Indonesia, Macau, Malaysia (foreign workers only) and Singapore – four Latin-American countries – Argentina, Chile, Peru and Uruguay – and five CEEC and NIS countries – Bulgaria, Croatia, Russia, Slovakia and Slovenia. Health insurance, on the other hand, is compulsory in only a few countries: e.g. Mexico (members of Government), Switzerland (seamen, workers in employment). Many countries require persons in certain occupational categories (lawyers, accountants, notaries, architects, hunters, etc.) to take out liability insurance.

6.2. Insurance Distribution

Regulation regarding the access to the market (especially for brokers) and the supervision of insurance intermediaries can be found in all four regions studied. Nearly all OECD countries and Asian economies have legislation regarding insurance intermediaries, the exceptions being the Czech Republic Denmark

5. In eight Asian economies (Brunei, Hong Kong, Indonesia, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand), the scope of the compulsory coverage for motor third liability insurance is restricted to death and bodily injury only.

and Germany for domestic intermediaries and Denmark, Germany and Switzerland for foreign intermediaries. In Asian economies, the only exception is Brunei. In Latin-American countries, the only exception is Honduras, where insurance legislation does not cover insurance brokers who are subject to the commercial code as independent retailers. Of the CEEC and NIS countries, only Albania and Estonia, have not yet regulated the activity of insurance intermediaries, but laws are being drawn up. In those countries, there has often been no clear distinction between the agent and broker functions. Such a distinction is made in most OECD, Latin-American countries and Asian economies. In most countries there are three kinds of intermediaries: company employees, agents and brokers. In OECD Member countries, brokers often have to be licensed, whereas agents simply have to be registered (e.g. with an insurance association). This due to the fact, that in most cases agents are directly employed by supervised insurers which are held legally responsible for the activities of their agents. In France, Italy, Japan and the Netherlands, even insurance brokers simply have to be registered. In Korea, life insurance brokers have to obtain authorisation to practise from the Finance Ministry.

In most Asian economies, the entry into insurance intermediary business, in particular brokerage business, is fairly regulated and supervised. In four Asian economies (Indonesia, Malaysia, the Philippines and Thailand), brokers are subject to licence, which in the Philippines and Malaysia has to be renewed regularly. In the Philippines and Thailand, agents are also subject to licence, which in the Philippines has to be renewed regularly. In many Latin-American countries, insurance brokers have either to be authorised by the supervisory authority (Cuba, Nicaragua, Panama and Venezuela) or to be registered (Argentina, Brazil, Chile, Colombia, Guatemala, Paraguay and Peru). Requirements as to professional qualifications exist for brokers in nearly all countries but for agents in only a few: Belgium, France, Italy, Japan, Korea, Luxembourg, Mexico, Turkey, Hong Kong, Laos, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei and Thailand. Often, brokers also have to establish financial guarantees in order to practise. These guarantees take the form of professional liability insurance in Australia, Belgium, Finland, France, Hungary, Iceland, Italy, Korea, Luxembourg, Mexico, Norway, Poland, Portugal, Spain, Sweden, Turkey and the United Kingdom and contributions to a guarantee fund in Italy, Korea and the United Kingdom. Financial guarantees are also required in Hong Kong, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei, Sri Lanka, Chile, Colombia, Nicaragua, Paraguay, Peru and Venezuela. None of the CEEC and NIS countries mentions the requirement of financial guarantees for brokers.

6.3. Taxation

In many countries of all four regions studied, tax incentives for the purchase of life insurance products such as the deductibility of premiums contracted by private individuals from taxable income within a certain limit are granted (OECD: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Portugal, Sweden, Switzerland and Turkey; Asian economies: Chinese Taipei, Malaysia, Singapore and Thailand; all Latin-American countries except Cuba, El Salvador and Honduras; CEEC and NIS countries: Albania, Belarus, Croatia, Kazakhstan, Latvia, Lithuania and the Republic of Moldova). Eight OECD countries do not report any tax relief (Australia, Canada, Finland, Iceland, Ireland, New Zealand, United Kingdom and United States). When tax incentives are granted, they usually concern policies which specify that, in the event of the holder's survival, benefits are payable in the form of an annuity or a lump sum.

Some countries mention tax exemption for benefits paid. This applies to Australia, Belgium, the Czech Republic, Denmark, France, Germany, Hungary, Iceland, Japan, Poland, Spain, Turkey, the United Kingdom, the United States, Croatia, Latvia, Lithuania, Argentina and Panama.

Sources* (OECD Publications) *:

Insurance Regulation and Supervision in OECD Countries

Insurance Regulation and Supervision in Asia

Insurance Regulation and Supervision in Latin America

Insurance Regulation and Supervision in Economies in Transition

Insurance Solvency Supervision

Financial Market Trends (71)

Policy Issues in Insurance: Investment, Taxation, Insolvency