21. Insurance in Russia

21.1 Introduction

The insurance business and distribution of life insurance products in Russia is mainly regulated by Federal Law No. 4015-1 “On the Organization of the Insurance Business in the Russian Federation” dated 27 November 1992, as amended (the “Insurance Law”) and the Civil Code of the Russian Federation (the “Civil Code”). In the cases envisaged by the Insurance Law, federal executive authorities may adopt further regulatory acts governing insurance procedures. Since September 1, 2013 the insurance business has been supervised by the Central Bank of Russia (the “Bank of Russia”), which is responsible for issuing insurance licenses and supervising the compliance of insurers with applicable regulations.

There is a tendency towards consolidation of the insurance market, including as a result of the Bank of Russia policy, which is aimed at strengthening the financial stability of domestic insurers and decreasing the number of providers of “false” insurance or insurers not in compliance with the law.

In reinsurance matters Russian insurers work closely with foreign reinsurers and integrate into the international insurance market by establishing affiliated companies abroad.

21.2 Licensing Requirements

Conducting insurance activities requires a license in Russia. Pursuant to the Insurance Law, insurers must be legal entities incorporated in accordance with Russian legislation and need a Russian license in order to conduct insurance business. Reinsurance services may be provided by foreign reinsurers not licensed locally. Intermediation in the Russian insurance market can be conducted by insurance agents and/or brokers. Under Russian law the difference between insurance brokers and agents is that a broker is not allowed to act in the name and on the instructions of an insurer, and an agent is not allowed to act...
in the name and on the instructions of the insured. In addition, brokers should be licensed by the Bank of Russia whereas agents do not need a license. Brokerage and agency activities may not be combined under Russian law. The activity of agents and brokers connected with the entry into and performance of insurance policies (save for reinsurance policies) with foreign insurance organizations or foreign insurance brokers is not permitted in the territory of the Russian Federation.

21.3 Restrictions on Foreign Investments

Foreign investors may access the Russian market via their Russian subsidiaries. Russian law places restrictions on insurance companies that are subsidiaries of foreign investors or where more than forty-nine percent (49%) in their charter capital belongs to foreign investors (with an exception discussed below). They cannot conclude personal insurance contracts in relation to property interests connected with citizens surviving until a certain age or date, death, or other events in citizens’ lives (i.e., life insurance). They cannot provide mandatory liability insurance, mandatory state insurance or property insurance polices related to the performance or delivery of work under a contract for state needs as well as insurance of the property interests of state and municipal organizations.

There is a quota on the foreign capital present in the aggregate capital of insurance companies operating in Russia. This quota was changed due to Russia’s accession to the WTO and is now set at fifty per cent (50%) and is far from being exceeded. Should the amount of foreign capital invested into the sector exceed this quota, the regulator must stop issuing licenses to insurance companies that are affiliates of foreign insurers or which are more than forty-nine percent (49%) foreign-owned.

An exemption from the above restrictions is provided in Clause 5 of Article 6 of the Insurance Law. This exemption applies to subsidiaries of foreign companies and to companies with foreign capital exceeding the forty-nine percent (49%) limit whose parent organizations are situated in member states of the European Community. This exception
is established in the “Agreement on Partnership and Cooperation Establishing a Partnership between the European Communities and their Member States, on the One Part, and the Russian Federation, on the Other Part” dated 24 June 1994.

Russia has undertaken obligations in insurance services under the Protocol on the Accession of the Russian Federation to the Marrakesh Agreement Establishing the World Trade Organization in Geneva on 16 December 2011. In particular, foreign insurance companies will be allowed to directly open branches in Russia starting in 2021. Incorporation and operation of such branches would be supervised by the Bank of Russia, and they would need to be permanent establishments for tax purposes. As a WTO member, Russia also undertook other obligations in order to make its insurance market more open for foreign companies.

21.4 Regulation of the Insurance Market and Products

The Insurance Law contains a general description of the organization of the Russian insurance market, licensing requirements, operation and liquidation of insurance businesses, requirements relating to the financial stability of insurers, as well as regulation of other participants of the Russian insurance market, such as insurance brokers and dealers.

The Civil Code establishes the types of insurance, the concept and compulsory terms of insurance contracts, the rights and duties of parties to such contracts, rules for the change of parties and beneficiaries to insurance contracts, rules for termination of insurance contracts, as well as other fundamental insurance-related regulation. In particular, Article 934 of the Civil Code establishes the basis for personal (life and health) insurance and Article 929 the basis for property insurance (property insurance, liability insurance and business risks insurance).

Starting with 2015, insurers are obliged to provide tools for online interaction between the insurers and customers. In particular, a
customer may apply for insurances or receive payments through the insurer’s official websites.

21.5 Types of Insurance in Russia

Russian law provides for two basic types of insurance: personal insurance (such as life and health insurance) and property insurance (property insurance, liability insurance and business risks insurance). Life insurance activity may not be combined with other types of insurance activities, i.e. an insurer may only offer either life insurance, or health and property insurance.

The law also mentions the possibility of issuing insurance policies incorporating investment elements in the case of life insurance; however, because there is no further regulation of such instruments and for a number of other reasons, it is not clear how the investment provisions of such insurance policies would be treated by courts.

In 2015 the Civil Code was amended to extend its effect to export credit insurances and investments against business and (or) political risks.