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SURVEY REVIEW

SUPERVISORS' USE OF KEY INDICATORS TO ASSESS INSURER CONDUCT

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In June 2022, the International Association of Insurance Supervisors – IAIS published a survey on the key indicators for the assessment of the insurer (market) conduct by supervisory authorities.

The survey covered 51 authorities and included the National Bank of Serbia as a supervisory authority for insurance sector in the Republic of Serbia.

The survey contains 6 chapters, where chapters 1 and 2 cover authorities' powers to collect and analyse insurer conduct data. Chapter 3 describes the number and type of conduct indicators collected and analysed by supervisors (supplemented by Annex 2 which provides additionally explained indicators). Chapter 4 presents the purposes for which supervisors use the conduct data analysis, whereas in Chapter 5 supervisors identify the top challenges they encounter in the market conduct. Chapter 6 reports on, unfortunately, currently an unavoidable topic of the impact of Covid-19 epidemic on supervisors' collection of conduct data.[2]

Key indicators in the survey refer to the data used to measure the delivery of regulatory objectives, notably „fair treatment of policyholders",[3] more precisely,

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[2] Full survey is available at: *https://www.iaisweb.org/uploads/2022/06/Report-on-Supervisors-Use-of-Key-Indicators-to-Assess-Insurer-Conduct.pdf*

[3] For more details see: N. Filipović, „Nadzor nad pravilima tržišnog ponašanja", *Moderni aspekti zakonskog i regulatornog koncepta osiguranja*, Association for Insurance Law of Serbia and Association of Serbian Insurers, Beograd 2020, 257-273; N. Filipović, „Načela poslovanja prema Direktivi o distribuciji osiguranja",

the IAIS includes: developing, marketing, and selling products in a way that pays due regard to the interests and needs of the policyholders and insured persons, providing customers with information before, during and after the point of sale that is accurate, clear, and not misleading, minimising the risks of sales which are not appropriate to customers' needs, ensuring that any advice (when given) is of a high quality, dealing with customer claims in a fair and timely manner, and protecting the privacy of information obtained from customers.

1. Data Gathering Powers

According to the survey, a significant majority (90% of supervisors) have direct powers for general data collection from insurance companies. These powers are stipulated in main or subordinate legislation, although, in many cases, they do not specifically mention conduct-related data. Instead, the collection of conduct-related data is carried out as part of the general power to collect insurer data for supervisory purposes.

There is a large variance in practices since some supervisory authorities require insurers to submit periodic market conduct returns, while others do not have a formal framework in place for collecting insurer conduct-related data. Generally, it can be concluded that the majority of supervisors collect conduct-related data largely on an *ad hoc* basis with some supervisors currently in the process of having in place (formalizing) their data collection processes.

2. Data Sources and Analyses

For their sources, over half (63%) of supervisory authorities relies on conduct-related data from both insurers and third parties, while about a third (35%) collect such data from insurers only. Interestingly, one supervisor collects conduct-related data *exclusively* from third parties. Third parties identified by supervisors include: industry associations, insurance intermediaries, Ombudsman and other external dispute resolution forums, other bodies (particularly when the insurance supervision is institutionally divided into more than one body – example of the United Kingdom, where there is a separate Prudential Regulation Authority and Financial Conduct Authority, policyholders (i.e. appeals and complaints), and also less formal means of collecting data through press, social networks, and the like.

Pravo i praksa osiguranja – izazovi, nove tehnologije i korporativno upravljanje, Association for Insurance Law of Serbia and Association of Serbian Insurers, Beograd 2018, 232–247.

In terms of data analysis, some of the supervisory authorities use advanced "business intelligence" (BI) technologies and software, while most rely on Microsoft Suite tools, such as Excel spreadsheets.

Most supervisors use a combination of quantitative and qualitative data methodologies for analysing data, with the use of qualitative analysis techniques by 94%, and quantitative analysis is used by somewhat smaller number of supervisors- 80%.

3. Indicators – Type and Number of Data Collected and Processed

The survey identified as many as 201 different indicators that the supervisory authorities analyse when assessing the conduct of insurers, with the caveat that the real number is probably somewhat lower since, for example, the termination of the contract by the policyholder and the termination of the contract by the insurer are treated as different indicators, regardless of the fact that both cases concern the cancellation of the contract.

Most supervisors (80%) collect less than 20 indicators, while about 40% of authorities collect 10 or fewer indicators.

In order to systematise a large number of indicators in the survey, they are grouped into several areas:

1. Losses/Claims – claims volumes and amounts, claims outcomes such as registered, pending, denied, accepted or withdrawn, claims ratio;[4]
2. Contract renewals, alterations and, generally speaking, persistency of client relationships – number of contracts expired, not renewed, or cancelled, number of contracts renewed and reasons for contract termination / cancellation;
3. Complaints – overall complaint volumes, complaints by reasons, outcome of possible dispute, distribution channel, production lines, number and outcome of disputes;
4. Pricing and cost structure, fees and commissions – structure and amounts of commission and other fees other than the commission, combined ratio, expense ratio;
5. Microinsurance-specific;
6. Investigation for fraud – number and proportion of claims flagged or investigated for fraud and the outcomes;
7. Industry-wide indicators;
8. Other – service design and selling practices, market structure, customer satisfaction, how information is given to consumers, promotional and

[4] Measures how much the insurer is paying out in claims relative to the premium.

marketing strategies, insurers' internal policies and practices

Aside from the indicator group "Other", which is by its nature the broadest, the supervisory authorities reported that they are primarily focused on the "Losses / Claims" area, and within this group, 29 different indicators were identified that the supervisory authorities analyse.

4. Supervisory Uses of Conduct Data

The indicators collected by the supervisory authority are used to assess the extent to which the insurance company achieves the prescribed regulatory standards of conduct, primarily "fair treatment of policyholders".

As this is a broad legal standard, the supervisory authorities clarified that within this "general" rule of market conduct they are focused on the following specific issues:

- Product appropriateness;
- Customer value;
- Mis-selling;
- Quality of service;
- Quality of information to customers;
- Experience (client satisfaction);
- Quality of advice;
- Conflict of interest;
- Appropriateness of target market.

However, it is important to draw attention to the fact that some indicators are used in the assessment of more specific requirements within market conduct, so *complaints* are singled out as a key indicator for all the above-mentioned issues. Thus, the supervisory authorities almost unanimously confirmed that complaints are the most important source of information about the insurer conduct and that the analysis of complaints and the outcome of the final procedures upon complaints (that is, the outcome after possible court proceedings) is probably the most important area on which insurance companies, i.e. compliance departments should focus their attention.

As the supervision of market conduct can be reactive, preventive, or proactive, the supervisory authorities also expressed their opinion in terms of how they act during supervision. With slight variations, the survey indicates that the supervisory authorities act in all three ways, while reactive supervision stands out with 94% of the supervisory authorities that participated in the survey. Preventive approach is used by 86% of the supervisory authorities. Within reactive supervision, taking formal measures against insurance companies occupies a dominant

place, undertaken by 86% of supervisory authorities. A relatively small number of supervisory authorities use the collected data to educate customers, only 53% of the respondents.

5. Supervisory Challenges

At the end of the survey, the supervisory authorities gave their opinion on the key challenges they face in the process of supervision, application, and implementation of market conduct rules.

According to the national supervisors, the major challenge is the fact that the insurers do not pay sufficient attention, namely, there is a poor prioritisation of conduct-related issues by insurers. A lack of resources and poor data quality take the second and third place, whereas the fourth challenge is the general attitude of insurers that the regulatory requirements and compliance are quite costly for the industry,[5] and eventually, the fifth challenge is poor understanding of demand by the insurers.

6. Brief Overview of the Survey

The survey is the result of the continuous work of the IAIS, that is, its Market Conduct Working Group, which has been among the most active in recent years. This is undoubtedly confirmed by the focus of the supervisory authorities on these regulatory issues.

In today's world of global governance, umbrella organizations like IAIS use soft law instruments to *de facto* influence the development of regulations. Namely, positions from supranational organizations like IAIS descend first to the regional level (EU) and then to the national level. In other words, it is almost certain that sooner or later, the observations from IAIS surveys will be transferred to the national regulations.

Considering the above, the author thinks that the two most important conclusions we can draw from this survey are the following:

Firstly, complaints and objections are a key indicator used by the supervisor to assess the insurer conduct. However, it is important to note that this indicator does not only involve formal complaints procedure (meeting formal requirements), but also takes into account the final outcome of the disputable relationship (after being resolved before the court or out of court). It seems that the supervisory authority may take the position that the frequent (i.e. systemic) practice of rejecting claims, which

[5] On the presentation (and success) of the argument concerning business compliance costs for the insurance industry, see: N. Filipović, „Budućnost obaveze predugovornog informisanja u pravu osiguranja", *Osiguranje i pravno-ekonomsko okruženje – širi i uži okvir*, Association for Insurance Law of Serbia and Association of Serbian Insurers, Beograd 2022, 272–273.

eventually end up in payment after a court (or any other) proceedings, is a kind of unfair relationship with the policyholder. For this reason, supervisors are becoming increasingly interested in indicators such as disputable relationships (particularly challenged in the court proceedings) versus paid claims, a so-called *dispute ratio*, and already mentioned *claims ratio*.

Secondly, according to the supervisory authorities, the risks arising from the conduct of insurers and general market conduct issues are not ranked high on the list of priorities of insurance companies and their compliance departments. That observation and the position of the supervisory authorities can be understood as a kind of appeal to insurance companies to pay more attention to these legal issues.

Source

- *https://www.iaisweb.org/uploads/2022/06/Report-on-Supervisors-Use-of-Key-Indicators-to-Assess-Insurer-Conduct.pdf*

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