

# Amendments to Insurance Law

20 April 2016

## In brief

The Moldovan Parliament has amended the Law on insurance to include new rules on the requirements for holding the founder and shareholder positions in an insurance (reinsurance) company, the grounds for withdrawal of licences, requirements on qualifying holding in the statutory capital, financial recovery.

## In detail

### General provisions

The Law\* substantially modifies the definitions of the concepts of significant shareholder, person in a senior position, qualifying holding and introduces the concept of beneficial owner.

The Law requires the appointment of the members of a company's board and executive body, with the prior approval of the National Commission for Financial Markets ("NCFM").

It is now prohibited to transfer the responsibilities of the members of a company's board and executive body to other parties.

A party registered in jurisdictions, which do not implement international standards of transparency and / or in high-risk countries or jurisdictions is not entitled to own, directly or indirectly, individually or jointly with other parties with which it acts in a concerted manner, shares in the statutory capital of the insurance (reinsurance) company.

NCFM will establish in an item of secondary legislation the list of jurisdictions, which do not implement international standards of transparency and / or high-risk countries or jurisdictions.

The minimum capital for an insurance (reinsurance) company, which sells mandatory third party motor insurance policies, has been increased from MDL 15 million to MDL 25.5 million.

New grounds have been introduced for the license withdrawal of insurance (reinsurance) companies:

- the insurance (reinsurance) company owes membership payments and fees to the National Motor Insurers' Bureau;
- the insurance (reinsurance) company has outstanding debts in accordance with the Law on mandatory third party motor insurance liability.

### Qualifying holding

New requirements have been introduced for parties which own or intend to obtain qualifying holdings in the

statutory capital of insurance (reinsurance) companies, and the principles for assessing the potential significant shareholder.

No party is allowed, without the prior approval of the NCFM, to acquire, increase or decrease, individually or jointly with other parties with which it acts in a concerted manner, under any circumstances, a qualifying holding in the statutory capital of insurance (reinsurance) companies.

For acquisition or increase of qualifying holdings in breach of NCFM approval requirements, the Law stipulates the following consequences:

- suspension of the voting rights, of the right to convene the general meeting of shareholders, to introduce topics on the agenda of the general meeting of shareholders, of the right to receive dividends etc.;
- obligation to dispose of the qualifying holdings within three months as of the date of purchase.

### *Financial recovery*

The Law includes new rules on the proceedings governing the financial recovery of insurance (reinsurance) companies.

The NCFM is competent and empowered to decide on the financial recovery measures to be taken by insurance (reinsurance) companies in order to prevent insolvency and, if possible, to avoid the commencement of insolvency proceedings.

The Law specifies the measures to be ruled by NCFM on insurance (reinsurance) companies.

### *Insurance and / or reinsurance intermediation*

Legal entities engaged in leasing have been authorised to act as bancassurance agents.

The minimum monetary share capital of insurance and / or reinsurance brokers has been increased from MDL 25,000 to MDL 100,000.

### *Other provisions*

The Law introduces new penalties:

- warning;
- fine of up to 20% of the minimum share capital for reinsurance brokers;
- suspension or withdrawal of the seniority status, with the prior approval of the NCFM;
- partial or full suspension or withdrawal of licenses;
- the prohibition, for one year as of the date of penalty, to apply for a new license for the class or classes of insurance for which the license is withdrawn.

*[Source: Law\* no. 4 dated 25 February 2006 amending and supplementing Insurance Law no. 407 dated 2 December 2006, Official Gazette no. 79-89 dated 1 April 2016]*

### *The takeaway*

The amendments and supplements to the Law

entered into force on 1 April 2016.

Insurance (reinsurance) companies and insurance and / or reinsurance brokers are required to comply with the new rules on share capital within 18 months as of the date of entry into force of the Law.

Legal entities, which own qualifying holdings in the share capital of insurance (reinsurance) companies should comply with the requirements on share capital (net assets) within 18 months as of the date of entry into force of the Law.

The residents of any of the jurisdictions that do not implement international standards of transparency and / or of high-risk countries or jurisdictions and who / which own shares in an insurance (reinsurance) company should dispose of such shares within one year as of the date on which such jurisdiction or country is included in the NCFM approved list.

## ***Let's talk***

For a deeper discussion of how this new legislation might affect your business, please contact:



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