Adaptation of the legislation of Ukraine on regulation of the insurance market and insurance services to the EU acts

*Completed*: Brydun Ihor, PhD of [NASU Institute for Economics and Forecasting](https://www.nasu.gov.ua)

[Linkedin](https) | [Facebook](https) | [ORCID](https)
The process of Ukraine's integration into the European Union necessitates the harmonization of Ukrainian legislation with EU legislation. The Law of Ukraine “On the National Program for Adaptation of the Legislation of Ukraine to the European Union” established that adaptation is a priority component of the process of Ukraine's integration into the European Union, which in turn is a priority of Ukrainian foreign policy.

One of the priority areas for the implementation of the National Program of Legal Approximation is the area of financial services, and in particular, insurance as part of it.
The task of adapting Ukrainian legislation to EU legislation

- Unification of European and Ukrainian legal terminology
- Making changes and/or additions to the relevant regulations
- In the absence in Ukraine of regulations necessary for the legal regulation of certain relations in the field of insurance, and if such regulation is provided by EU directives - the development and implementation of new ones.
Provisions of the Association Agreement

_Ukraine has committed itself to implementing EU rules on:_


- Motor insurance (Directive № 2009/103 / EC of the European Parliament and of the Council of 16 September 2009 on insurance against civil liability in respect of the use of motor vehicles and enforcement of obligations under such liability insurance (codified version);


The adaptation of the legislation of Ukraine has already been adopted

- Regulations on the state register of financial institutions
- Procedure for Conducting Inspections on Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime
- Licensing conditions for insurance activities
- Regulations on the procedure for forming the statutory fund of the insurer with securities and others.
Priority areas for adaptation of Ukrainian legislation to EU legislation remain

The process of adaptation

- Determining the solvency of insurers
- Bankruptcy of insurers
- Intermediary activities in insurance
- Insurance of civil liability of vehicle owners
- Reinsurance
- And other
On March 31, 2016, the government of Ukraine adopted in the first reading the draft law of February 6, 2015 № 1797-1 “About Insurance”, which takes into account the basic recommendations of Directive 2009/138 / EC of the European Parliament and of the Council of November 25, 2009. About the beginning and conducting of activity in the field of insurance and reinsurance (Solvency II) ».
The new law "About insurance"

Provides:

- Determination of the classification of branches and types of insurance in accordance with the recommendation of the first Council Directive 73/239 / EEC
- Registration of insurers exclusively in the form of a joint stock company and introduction of a new procedure for their registration
- Establishment of the institute of professional reinsurers and allocation of reinsurance in essence, in a separate type of insurance, for the implementation of which it is necessary to obtain a license
- Establishing the procedure for disclosure of information by insurers to ensure reliable protection of policyholders and the introduction of prudential supervision of insurance activities
- Establishing solvency requirements that take into account the quality of the insurer’s assets, its management system and information disclosure
- Determining the conditions of access to activities on the territory of Ukraine by non-resident insurers
- Issuance of a permit for cross-border insurance in cases established by the legislation of Ukraine
- Establishing requirements for the owners of significant participation and the procedure for acquiring significant participation from the insurer
- Establishing requirements for the corporate governance system of the insurer
- Determining the procedure for regulating mediation activities on the territory of Ukraine in accordance with EU legislation
- Determining the legal status of actuaries, auditors in the field of insurance
The new law "About insurance"

Will promote:

- Strengthening the market principles of insurance market participants
- Improving the system of legal support of the insurance services market, including the system of insurance licensing
- Ensuring economic competition, which will improve the quality of insurance services
- Ensuring economic competition, which will improve the quality of insurance services
- Ensuring reliable protection of policyholders by preventing insolvency of insurers
- Consistent transition to the system of prudential supervision of insurance activities
- Improving the system of monitoring the activities of insurers
Solvency of insurers

According to EU law, the level of solvency of an insurance company must be sufficient to ensure that it fulfills its obligations to policyholders and third parties.

According to the EU Directives, the solvency margin consists of the insurance company’s assets, which are free from any obligations.

Solvency II consists of three components (pillars):

- **Component 1** defines quantitative requirements (for example, the amount of capital that an insurer must have;
- **Component 2** sets out requirements for the management, risks and supervision of insurers;
- **Component 3** focuses on disclosure and transparency requirements.

- First Directive (non-life insurance) “72/239/EEC”
- Solvency I (non-life insurance) “2002/12/EC”
- Solvency I (life insurance) “2002/13/EC”
- Solvency II “2009/138/EC”
Comparison of the Solvency II Directive (2009/138 / EC) to be implemented with the current Insurance Law

Law of Ukraine “On Insurance” (Draft Law “On Insurance”)

Non-life: 1 million euros
Life: 10 million euros


Non-life: 2,2 million euros
reinsurance organizations: 3.2 million euros
controlled reinsurance organizations: 1 million euros
Model of influence of regulatory requirements on insurance companies of Ukraine

Source: compiled by the author

RR - regulatory requirements "Solvency II"

DS – tax penalties

FF – generating additional capital from income

RR.Insurance companies

Model Insurance company

Inventories

DS

RR

FF

FF.Additional capital inflows

WP.NCF
Model of influence of regulatory requirements on insurance companies of Ukraine

RR - regulatory requirements "Solvency II"

DS - tax penalties

FF – generating additional capital from income

Source: compiled by the author
**Assessment of simulated implementation of regulatory requirements**

- According to 1 scenario, the insurance market of Ukraine lost **97** insurance companies (at the beginning of 2021: 173, in the 6th month of 2022: 76 companies)

- According to scenario 2, the insurance market of Ukraine lost **144** insurance companies (at the beginning of 2021: 173, at the end of the 2nd month of 2022: 29 companies)

- The economic loss for 1 scenario is *: **16,108.62 million UAH** or **607,872.45 million $ USA**

- The economic loss in the 2nd scenario is *: **70,745.39 million UAH** or **2,669.64 million $ USA**

* Amount: Assets, Equity, Insurance reserves, Net earned premiums, Premiums transferred to reinsurance, Insurance payments and insurance indemnities, Labor costs, Income tax expenses.
Conclusions

1. Ukraine is implementing the process of integration into the European Union and aligns Ukrainian legislation with EU legislation.

2. One of the priority areas for the implementation of the National Program of Legal Approximation is currently the area of financial services, and in particular, insurance services as part of it.

3. Already today, in order to adapt the legislation of Ukraine adopted:
   - Regulations on the state register of financial institutions;
   - The procedure for conducting inspections on the issues of prevention and counteraction to legalization (laundering) of proceeds from crime;
   - License conditions for insurance activities;
   - Regulations on the procedure for forming the statutory fund of the insurer in securities;
   - Association (transfer of powers) of the National Commission for State Regulation of Financial Services Markets with the National Bank of Ukraine. A single regulator of the financial, insurance and banking services market has been formed.
   - and others.

4. According to our model of the impact of regulatory requirements of Solvency II on insurance companies in Ukraine. The Ukrainian insurance market, in particular the state regulator of the NBU, still has a problem with the adoption of a rule requiring the capital of the insurer in connection with the economic situation of the insurance market and its subjects. In accordance with this problem, the adoption of the solvency ratio is currently necessary to extend for subsequent periods.
Thanks for your attention!