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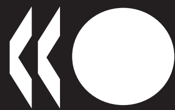
Insurance Regulation and Supervision in Asia and Latin America

INSURANCE AND PENSIONS



OECD Proceedings

Insurance Regulation and Supervision in Asia and Latin America

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FOREWORD

The present volume contains papers prepared for two conferences on insurance regulation and supervision held in late 2000 and early 2001 and provides valuable reference work on insurance policy issues for policy makers and experts in the public sector and academics both in OECD Member countries and non-Member economies. These conferences reflect a geographical expansion of the OECD policy dialogue in the field of insurance; earlier co-operation was focused on the Central and Eastern European countries and the Newly Independent States where numerous meetings on insurance issues were held throughout the 1990s.

The Conference on Insurance Regulation and Supervision in Latin America was held in Oaxaca, Mexico, on 6-8 September 2000, co-organised by the OECD, the IAIS and the Association of Insurance Supervisors in Latin America (ASSAL) and hosted by the Insurance and Surety National Commission (CNSF) of Mexico. This conference was the first OECD meeting ever held on insurance issues in Latin America. The 2nd Conference on Insurance Regulation and Supervision in Asia was held in Kuala Lumpur, Malaysia, on 17-18 January 2001, co-organised by the OECD and the IAIS and hosted by the Bank Negara Malaysia. Both conferences were held in the framework of the activities of the OECD Insurance Committee under the aegis of the Centre for Co-operation with Non-Members, and co-sponsored by the Government of Japan.

For each conference, the OECD Secretariat prepared comparative studies on insurance regulation and supervision in Asia and Latin America so that discussions could focus on the policy issues which are most relevant to the participating countries. This publication presents these comparative studies.

This publication has been prepared by Mr. Hisaya Ishii of the Insurance and Private Pensions Unit of the Financial Affairs Division, with the technical co-operation of Mr. Edward Smiley and Ms. Elizabeth Nash. It is published on the responsibility of the Secretary-General of the OECD.

Eric Burgeat
Director
Centre for Co-operation with Non-Members

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PART I

INSURANCE REGULATION AND SUPERVISION IN ASIA

by
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EXECUTIVE SUMMARY[1]

I. Organisational Structure of Insurance Regulatory and Supervisory Authority

All Asian economies report the existence of insurance regulatory and supervisory authorities.

In three Asian economies (Macau, Malaysia and Singapore), a central bank is responsible for the regulation and supervision of all financial institutions, including insurance companies. All of these authorities are self-financing.

Hong Kong's insurance supervisory authority, the Office of the Commissioner of Insurance, is an independent office specialising in insurance supervision. It is financed by the government, which partly recovers its costs by fees collected from insurers and insurance brokers. Likewise, in India, the Insurance Regulatory and Development Authority is responsible for insurance regulation and supervision. It is separate from the Ministry of Finance and is financed mainly by insurers. These two authorities are similar to insurance supervisory authorities of some OECD Member countries, in particular in Continental Europe.

1. **General Remark**: The OECD Secretariat has conducted a comparative study of the insurance regulation and supervision in Asia, as a preparatory work for the 2nd Conference on Insurance Regulation and Supervision in Asia which was held on 17-18 January 2001 in Kuala Lumpur. This study is an update of the previous study prepared for the 1st Conference on Insurance Regulation and Supervision in Asia held on 1-2 February 1999 in Singapore (see the OECD 1999 publication "Insurance Regulation and Supervision in Asia"). The present study is mainly based on responses to the OECD questionnaire of the following 13 Asian economies (Brunei, Cambodia, Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Vietnam). Therefore, in this Note, "Asian economies" means these 13 Asian economies.

In other Asian economies (Brunei, Cambodia, Indonesia, the Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam), a division or a department within a Ministry is responsible for the regulation and supervision of insurance companies. The relevant Ministry is typically the Ministry responsible for financial affairs. These authorities are financed by the State budget.

The number of staff employed by the insurance supervisory authority ranges from 14 in Vietnam to 525 in Thailand.

II. Licensing

Licensing Requirements

In all Asian economies except Brunei, the establishment of insurance companies is subject to the licence granted by the insurance regulatory/supervisory authority. In Brunei, the establishment of insurance companies is subject to the approval of the Ministry of Finance (pending the introduction of the Insurance Act, however, there is currently a "freeze" on the registration of new insurance companies).

All Asian economies report the existence of a minimum capital requirement.

Regarding the minimum amounts of capital required, in all Asian economies excluding Brunei, Cambodia and Chinese Taipei, different amounts are stipulated for different types of insurers, such as "life insurers or non-life insurers" (in Macau, Sri Lanka and Thailand), "direct insurers or reinsurance specialists" (in India, Malaysia and the Philippines), "captive insurers or all other insurers" (in Singapore), etc.

A business plan for the first three years is required in Hong Kong, Indonesia, Macau, Malaysia, the Philippines and Sri Lanka, whereas a business plan for the first five years is required in India, Chinese Taipei, Thailand and Vietnam. In Singapore, a business plan for the first three to five years is required.

Most Asian economies report that a certain legal form is required. A shareholding "company" is admissible in these economies. In Hong Kong, Indonesia, Singapore, Chinese Taipei and Vietnam, another legal form is also admissible (in Hong Kong, "association of underwriters"; in Indonesia, "co-operative incorporation" and "mutual company"; in Singapore, "society"; in Chinese Taipei, "co-operative"; in Vietnam, "mutual association").

A "fit and proper requirement" is referred to by eight economies (India, Hong Kong, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Vietnam). Macau requires shareholders to be of good repute. The adequacy of reinsurance arrangement is mentioned by four economies (Hong Kong, India, Macau and the Philippines). Macau refers to the technical bases of tarification. Malaysia requires insurers to be members of relevant trade associations.

Licensing Procedures

Only five economies (Hong Kong, India, Indonesia, the Philippines and Singapore) explain their respective licensing procedures. In India, two sets of application are required. In three economies

(Hong Kong, Indonesia and Singapore), a certain procedure is required before the submission of a formal application.

Market Access

In all Asian economies, except Hong Kong, there are restrictions on market access in respect of the establishment of foreign insurers.

The application of the economic needs test is reported by some Asian economies (India, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Vietnam).

In five Asian economies (Macau, the Philippines, Singapore, Chinese Taipei and Vietnam), a wholly-owned subsidiary is admissible, but subject to the application of an economic needs test. These five economies report that the same licensing requirements are applied to domestic insurers and foreign insurers. In six Asian economies (Brunei, India, Indonesia, Malaysia, Sri Lanka and Thailand), a wholly-owned subsidiary is not admissible. All of these economies allow joint ventures with foreign participation. The maximum limit of foreign participation is as follows: case by case (in Brunei), 90% (in Sri Lanka), 80% (in Indonesia), 30% (in Malaysia), 26% (in India) and 25% (in Thailand). In Malaysia, foreign equity participation of 51% in a licensed direct insurer is allowed for existing foreign shareholders who are/were original owners of the insurer.

In the majority of Asian economies (Brunei, Hong Kong, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand), there exist branches of foreign insurers. Nonetheless, in these economies except for Hong Kong, the new establishment of branches of foreign insurers is subject to limitations.

Specialisation

In the majority of Asian economies (Brunei, Hong Kong, Malaysia, the Philippines, Singapore, Sri Lanka, Thailand and Vietnam), composite insurers currently exist. In Cambodia, composite insurers are admissible, although at present there exist no such insurers in this country.

It seems, however, that the admissibility of composite insurers tends to be limited in Asian economies as well and that the specialisation principle will be increasingly applied in this region. In Hong Kong and Malaysia, except for reinsurance specialists, a new composite licence can no longer be granted. In Thailand, the separation of composite insurers into life and non-life insurers was completed by April 2000.

In Singapore, although the concurrent operation of life and non-life business is allowed, separate insurance funds are required to be maintained for life and non-life business.

III. Solvency Supervision

Insurance Accounting Principles

The majority of Asian economies (Cambodia, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei, Thailand and Vietnam) report the adoption of specific insurance

accounting principles. Three Asian economies (Brunei, Hong Kong and Sri Lanka) report no adoption of such principles. However, in Hong Kong, there is an ordinance which prescribes the disclosure requirements in respect of financial statements. In addition, for solvency assessment purposes, there is a regulation which provides a standard and prudent basis for the determination of the value of assets and the amount of liabilities of non-life insurers, other than captive insurers.

Reporting

In all Asian economies except for Cambodia, insurance companies are required to submit periodically their financial documents to the insurance supervisory authority.

In ten Asian economies (Brunei, Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Vietnam), annual return is complemented by quarterly return. In Chinese Taipei and Thailand, annual return is even complemented by monthly return.

The content of quarterly return is in some cases very similar to that of annual return, although the quarterly return is not normally audited.

On-site Inspection

In the majority of Asian economies excluding Brunei, Cambodia, India and Sri Lanka, on-site inspection is carried out. In Cambodia and India, the supervisory authority intends to conduct on-site inspection.

Macau and Thailand point out that the frequency of on-site inspections depends in particular on the seriousness of the situation. The periodicity of on-site inspections varies from "at least once a year, and whenever it is necessary" (in the Philippines) to "normally once every three years and in special cases whenever it is necessary " (in Indonesia).

Solvency Requirements

All Asian economies except for Cambodia have adopted solvency requirements for insurance companies.

In some Asian economies (Hong Kong, India, Malaysia, the Philippines, Singapore and Thailand; in Macau, for non-life business only), the solvency margin has to reach at least a certain fixed amount, which is applied if the result of stipulated calculation does not exceed such an amount.

In some Asian economies (Brunei, Indonesia and Sri Lanka; Macau, the Philippines and Thailand, for non-life business only), the solvency margin is determined 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).

Apart from the situations already mentioned, for life business, solvency margin is in principle based on "mathematical reserves and capital at risk" (in Hong Kong and India), "mathematical reserves or capital at risk" (in Macau), "actuarial valuation liability, sums at risk, etc." (in Malaysia), "total insurance amount of all policies except term insurance" (in the Philippines), "liabilities and sum insured at risk" (in Singapore) and "reserve fund" (in Thailand).

Apart from the situations already mentioned, for non-life business, solvency margin is in principle based on "premium income and/or outstanding claims (or incurred claims)" (in Hong Kong, India, Malaysia and Singapore).

In most Asian economies, the solvency margin can be monitored by the supervisory body on a quarterly basis.

Technical Provisions

All Asian economies, excluding Brunei and Cambodia, have adopted principles or guidelines related to the setting-up or calculation of technical provisions. In the case of life business, "mathematical reserves" is most often referred to. In the case of non-life business, "unearned premium reserve" or "unexpired risk reserve" is referred to by most Asian economies.

Investment Regulation

(a) Evaluation Method of Investments

Eight Asian economies (India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand) report the existence of insurance legislation concerning the evaluation method of investments. Five Asian economies (Brunei, Cambodia, Hong Kong, Sri Lanka and Vietnam) report the non-existence of such insurance legislation (see also "Insurance Accounting Principles"). Hong Kong has asset valuation regulation for solvency purpose for non-life business but not for life business.

In Macau, the evaluation method of investments is based on historical cost concept. In three Asian economies (India, Indonesia and Thailand), market valuation is in principle used. In Malaysia and Singapore, the lower of cost or market value is in principle used.

(b) Content of Investment Regulation

In all Asian economies, except Brunei and Cambodia, there exist legal provisions concerning investments by insurance companies.

In all of these economies, such provisions 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.

Three economies (India, Sri Lanka and the Philippines) report the existence of minimum limits. In these economies, a certain portion of investments have to be invested in the following categories of investments; "government securities and other approved securities, and infrastructure and social sector" (in India), "government securities" (in Sri Lanka) and "bonds or evidences of debt issued by the government or governmental institutions" (in the Philippines).

The examples of investment regulations covering a set of maximum limits, in most cases together with admissible (and/or non-admissible) investments, could 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 Macau, Chinese Taipei, Thailand and Vietnam).

iii) a limited number of maximum limits - In the Philippines, the maximum limits are observed in relatively limited aspects such as investment in housing projects (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.

Only Hong Kong refers to the existence of a localisation requirement (for non-life insurers, excluding captive insurers and professional reinsurers) and the existence of requirements related to currency matching and maturity matching (for life insurers).

In some Asian economies, the proportional weight of "other investments" (investments other than real estate, shares, bonds and loans) in total investments is very high. In particular, in non-life business, "other investments" account for more than 50% in five Asian economies (Hong Kong, Indonesia, Macau, Chinese Taipei and Thailand), not necessarily because of investment regulations.

(c) Portfolio Investment Abroad

In six Asian economies (Hong Kong, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei), portfolio investments abroad are in principle allowed.

In five Asian economies (India, Indonesia, Sri Lanka, Thailand and Vietnam), portfolio investments abroad are not allowed or are severely restricted.

Reinsurance

(a) Regulation and Supervision on Reinsurance Arrangements

Seven Asian economies (Hong Kong, India, Macau, Malaysia, the Philippines, Singapore and Sri Lanka) refer to the regulation or supervision on reinsurance arrangement. For example, in Malaysia, it is required that reinsurance arrangements be in accordance with sound insurance principles.

(b) Regulation and Supervision on Reinsurance Specialists

In all Asian economies excluding Cambodia and Sri Lanka, where there currently exist no reinsurance specialists, reinsurance specialists are in general subject to the same regulation and supervision as direct insurers (in Brunei, in the absence of the Insurance Act, any application to undertake reinsurance business should be forwarded to the Ministry of Finance for approval).

(c) Domestic Retention Requirements

In seven Asian economies (India, Malaysia, the Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam), there exist domestic retention requirements. Four Asian economies (Brunei, Hong Kong, Macau and Singapore) report no such requirements.

The most typical examples of domestic retention requirements are compulsory cessions to national reinsurance specialists.

(d) Cross-border Reinsurance Transactions

All Asian economies allow cross-border reinsurance transactions. In India and Malaysia, such transactions are admissible only after utilising the reinsurance capacity available locally. In the Philippines, such transactions are admissible only through a resident agent registered with the supervisory authority.

Supervision on Policy Conditions and Premium Rates

In most Asian economies except Brunei, Cambodia, Hong Kong and Indonesia, there exists supervision on policy conditions and premium rates when new products are launched.

In four Asian economies (India, Sri Lanka, Chinese Taipei and Thailand), all classes of insurance are in principle subject to supervision on policy conditions and premium rates. In India, motor, fire, engineering, marine hull and workmen's compensation are tariff lines. In Sri Lanka, premium rates for motor, employees liability and fire are fixed by the authority. In Chinese Taipei, three classes of insurance (motor, fire and fishing vessel) are tariff lines.

In Macau, only compulsory classes of insurance, including motor third party liability insurance, are subject to supervision on policy conditions and premium rates. In Vietnam, besides compulsory classes of insurance including motor third party liability insurance, insurance of person is subject to such supervision. In Malaysia, two classes of insurance (motor and fire) are governed by tariffs which set the standard minimum rates, and life insurance is subject to "file and use". In Singapore, only life insurance is subject to supervision. In India, its non-life market is essentially a tariff market. In the Philippines, supervision on premium rates is less stringent than that on policy conditions.

Claims Data Collection on a Broader Basis

Some Asian economies (Brunei, India, Indonesia, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei) report the existence of a single body which collects claims data, such as loss frequency and loss severity, of individual insurers so that claims data of individual companies can be shared among a broader group of insurance companies and adequate premium rates can thus be calculated on a broader statistical basis.

In Macau and Singapore (in Singapore, for life), the supervisory authority itself collects such data and makes them available to the industry. Apart from the supervisory authorities themselves, insurance industry associations play an important role in this respect in some Asian economies (Brunei, Indonesia, Malaysia, the Philippines, Singapore (in Singapore, for non-life) and Chinese Taipei).

Actuary

In most Asian economies except Brunei, Cambodia and Vietnam, the appointment of an actuary is obligatory. In eight economies (Indonesia, Hong Kong, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Thailand), only life insurers (and composite insurers) are required to appoint an actuary. In India and Chinese Taipei, both life insurers and non-life insurers are required to employ actuaries.

The statutory duties of an actuary are related, inter alia, to calculating technical provisions and/or valuing policy liabilities (in Hong Kong, India, Indonesia, Macau, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand). In Malaysia and Singapore, an actuary is required to fulfil a much broader monitoring duty. Likewise, in Hong Kong, a fully-fledged appointed actuary system has recently been introduced.

Auditor

In all Asian economies except Vietnam, the appointment of an auditor is obligatory for all insurers, irrespective of which business, life or non-life, they conduct.

The statutory duties of an auditor are related, inter alia, to checking and certifying the process and content of financial accounts (in Hong Kong, India, Indonesia, Macau, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand). In Malaysia and Singapore, an auditor is required to fulfil a much broader monitoring duty.

IV. Insurance Companies in Financial Difficulties

Reference to Solvency Margin

Ten Asian economies (Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei and Thailand) explicitly state that they refer to the solvency margin in order to find out insurance companies in financial difficulties.

Possible Measures

Five Asian economies (Indonesia, Malaysia, Singapore, Sri Lanka and Thailand) report the existence of an "early warning system". However, no Asian economy reports the existence of specific guidelines which systematically indicate what kind of measures can (or should) be taken in what circumstances, in particular based on certain ratios related to the solvency margin. In this respect, Singapore points out that the exact measures to be taken depend on the circumstances of each case.

Nevertheless, various measures to be taken are reported by all Asian economies except Brunei. Examples of such measures are as follows: (i) to require a plan for restoration of a sound financial situation, (ii) to require injection of capital, (iii) to prohibit free disposal of assets, (iv) to restrict acceptance of new business or renewal of existing business, (v) to limit the amount of premium income, (vi) to require actuarial investigation, (vii) to appoint a special manager or advisor to take over control/management or give directions on the affairs of the insurer, (viii) to remove any director or person whom the supervisory authority considers unfit, (ix) to make reinsurance arrangements as the supervisory authority specifies, and (x) to order the insurer to cease doing business or to dissolve.

Portfolio Transfer

Seven Asian economies (Hong Kong, India, Indonesia, Macau, Malaysia, Singapore and Thailand) report that the organisation of portfolio transfers by the supervisory body is feasible before the actual bankruptcy of insurers.

Policyholders' Protection Fund

In the majority of Asian economies, excluding Cambodia, Sri Lanka, Thailand and Vietnam, there exist policyholders' protection funds. In three Asian economies (Brunei, India and Indonesia), statutory deposit can function as a policyholders' protection fund.

In Brunei, only compulsory motor third party liability insurance is covered by a policyholders' protection fund. In Hong Kong, motor third party liability insurance and employees' compensation insurance, both of which are compulsory, are covered. In Macau, motor third party liability insurance and third party liability insurance for pleasure vessels, both of which are compulsory, are covered.

In Singapore, in addition to compulsory insurance (motor third party death and injury liability insurance and workmen's compensation insurance), life insurance is covered.

In three Asian economies (Malaysia, the Philippines and Chinese Taipei), 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, full compensation or if not possible up to whatever can be covered by the fund; in Chinese Taipei, full compensation). In these three economies, the fund (or account) for life insurance and that for non-life insurance are separately managed.

Liquidation Procedure

Six Asian economies (Hong Kong, Indonesia, Macau, Malaysia, Singapore and Chinese Taipei) report the existence of the preferential status of policyholders in the liquidation procedure of bankrupt insurance companies.

Cases of Insurance Companies in Financial Difficulties for 1997-1999

Eight Asian economies (Brunei, Cambodia, India, Indonesia, Macau, Sri Lanka, Chinese Taipei and Vietnam) report no such cases.

Three Asian economies (Hong Kong, Malaysia and Thailand) report respectively only one case. The Philippines reports two cases.

In Singapore, during the Asian Financial Crisis of 1997/1998, a few life insurers were required to designate assets from their shareholders' fund to meet the solvency of their life funds. Based on year end 1999 audited results and appointed actuary's certification, all life companies were solvent. No policyholders suffered financial losses.

V. Other Issues

Cross-border Insurance Transactions other than Reinsurance

In Asian economies, the admissibility of cross-border insurance transactions other than reinsurance is rather restricted. In four Asian economies (India, Indonesia, the Philippines and Sri Lanka), such transactions are prohibited.

In three economies (Hong Kong, Macau and Singapore), all classes of insurance other than compulsory insurance can be transacted on a cross-border basis (in Hong Kong, the insurer concerned must not maintain a place of business or be represented by any insurance agents in Hong Kong). In these economies, however, the intermediation by insurance brokers established in these economies is restricted.

Compulsory Insurance

All Asian economies report the existence of compulsory insurance. In all Asian economies, motor third party liability insurance is compulsory. It should be noted that, in nine Asian economies (Brunei, Cambodia, Hong Kong, Indonesia, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand), the scope of the compulsory coverage for motor third party liability insurance is restricted to death and bodily injury only. The second most important compulsory insurance in Asian economies is compensation insurance related to employees or workmen.

The number of compulsory classes of insurance in each Asian economy ranges from one (in Sri Lanka and Thailand, motor third party liability insurance only) to five (in Macau, motor third party liability insurance, employees' compensation insurance, professional liability insurance for travel agents, and public liability insurance for neon signs, and third party liability insurance for pleasure vessels). The rationale of these classes of insurance being compulsory is explained to be the protection of victims.

Insurance Distribution

In all Asian economies except India, both insurance agents and insurance brokers are admissible. In India, insurance brokerage system is being introduced. All Asian economies, except Brunei and Cambodia, have insurance legislation related to insurance intermediaries.

In most Asian economies, the entry into insurance intermediation business, in particular brokerage business, is fairly regulated and supervised. For example, in Indonesia, Malaysia, the Philippines and Thailand, brokers are subject to licensing.

Accordingly, the minimum qualification to enter into intermediation business is stipulated in most of these Asian economies. The requirement related to professional liability insurance or guarantee for insurance brokers is stipulated in seven Asian economies.

Five economies (Hong Kong, India, Malaysia, Singapore and Thailand) report the self-regulatory function of industry associations in respect of insurance intermediaries.

Bancassurance

In most Asian economies except for Chinese Taipei, the maximum percentage of insurers' shares held by banks is not less than the maximum percentage of banks' shares held by insurers.

In Asian economies, the creation of insurance subsidiaries by banks is more widely admissible than the creation of banking subsidiaries by insurers.

In Asian economies, the distribution of insurance products by banks is more widely admissible than the distribution of financial products other than insurance by insurers.

Tax Incentives for Life Insurance Products

Six Asian economies (India, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand) report the existence of tax incentives for life insurance products. In these Asian economies, the premium paid for life insurance is deductible for the income tax purpose up to a certain prescribed maximum amount.

Insurance Industry Associations

In most Asian economies except Cambodia and Vietnam, there exist insurance industry associations. In most of these economies, industry associations play a self-regulatory function in respect of the following aspects: (i) setting of codes of practice, (ii) insurance intermediaries, (iii) arbitrary settlement, and (iv) policy conditions and premium rates.

COMPARATIVE STUDY

I. Organisational Structure of Insurance Regulatory and Supervisory Authority

All Asian economies report the existence of insurance regulatory and supervisory authorities.

In three Asian economies (Macau, Malaysia and Singapore), a central bank is responsible for the regulation and supervision of all financial institutions including insurance companies. In these economies, the central bank has a department specialised in insurance regulation and supervision. In Malaysia, the central bank, i.e. the Bank Negara Malaysia (BNM), has two departments responsible for insurance. One is responsible for regulatory aspects, and the other is responsible for supervisory aspects. All of these authorities are self-financing.

In Hong Kong, the Office of Commissioner of Insurance is responsible for the regulation and supervision of insurance companies. This body is an independent office specialising in insurance supervision, working under the policy direction of the Secretary for Financial Services who in turn reports to the Financial Secretary. It is financed by the government, which partly recovers its costs by fees collected from insurers and insurance brokers. Likewise, in India, the Insurance Regulatory and Development Authority is responsible for insurance regulation and supervision. It is separate from the Ministry of Finance and is financed mainly by insurers. These two authorities are similar to insurance supervisory authorities of some OECD Member countries, in particular in Continental Europe.

In other Asian economies (Brunei, Cambodia, Indonesia the Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam), a division or a department within a Ministry is responsible for the regulation and supervision of insurance companies. The relevant Ministry is most typically the Ministry responsible for financial affairs, such as the Ministry of Finance (Brunei, Indonesia and Chinese Taipei), the Department of Finance (the Philippines), the Ministry of Economy and Finance (Cambodia) and the Ministry of Finance and Planning (Sri Lanka), but in Thailand the Department of Insurance belongs to the Ministry of Commerce. In these economies, insurance supervisory authorities are financed by the State budget, together with the respective Ministries to which they belong.

The number of staff belonging to the insurance supervisory authority ranges from 14 in Vietnam to 525 in Thailand. In Thailand, around half of 525 staff working for the Department of Insurance belong to 75 provincial offices all over the country which oversee the implementation of the law on motor compulsory insurance introduced in 1992.

II. Licensing

Licensing Requirements

Note: In Brunei, there are the following particularities: (i) this country currently has no insurance legislation (until the introduction of insurance legislation, the Financial Institutions Division of the Ministry of Finance supervises the industry through ad hoc administrative measures), and (ii) pending the introduction of the Insurance Act, there is currently a "freeze" on the registration of new

insurance companies. Therefore the analysis related to Brunei is reserved for the time being. For this section, "all Asian economies" means "all 12 Asian economies",excluding Brunei.

In all Asian economies, the establishment of insurance companies is subject to the licence granted by the insurance supervisory/regulatory authority (in Brunei, the establishment of insurance companies is subject to approval from the Ministry of Finance).

All Asian economies report the existence of a minimum capital requirement (in Brunei, a minimum capital requirement is imposed on non-life insurance companies as an administrative measure). In addition, in five economies (Hong Kong, India, Macau, Malaysia and the Philippines), a certain minimum amount of solvency margin is required. Regarding the difference between these two requirements, Malaysia explains that the minimum capital requirement is applied on a company basis, whereas the minimum amount of solvency margin is to be maintained for each class of business written. In Sri Lanka and Vietnam, the amount of the minimum capital required is expressed in US$.

Regarding the amounts of minimum capital required, in all Asian economies excluding Cambodia and Chinese Taipei, different amounts are stipulated for different types of insurers (in Chinese Taipei, the minimum capital requirement for branches of foreign insurers is less stringent that for domestic insurance companies including subsidiaries of foreign insurers). The following categories of insurers are used as criteria for stipulating different amounts of minimum capital required:

i) in Macau, Sri Lanka and Thailand, life insurers or non-life insurers;

ii) in India, Malaysia and the Philippines, direct insurers or reinsurance specialists;

iii) in Singapore, captive insurers or all other insurers;

iv) in Indonesia, local companies or joint venture companies;

v) in Vietnam, branches and subsidiaries of foreign insurers, or all other insurers;

vi) in Hong Kong, non-life insurers with or without statutory business, life insurers, composite insurers with or without statutory business, reinsurers, or captive insurers.

In the case of (iv) and (v) mentioned above, higher amounts of the minimum capital are required for foreign capital (respectively five times and two and a half times).

All Asian economies report that a business plan has to be submitted. Whereas a business plan for the first three years is required in Hong Kong, Indonesia, Macau, Malaysia, the Philippines and Sri Lanka, a business plan for the first five years is required in India, Chinese Taipei, Thailand and Vietnam. In Singapore, a business plan for the first three to five years is required.

All Asian economies excluding the Philippines report that a certain legal form is required. A shareholding "company" is admissible in these economies. In Hong Kong, Indonesia, Singapore, Chinese Taipei and Vietnam, another legal form is also admissible (in Hong Kong, "association of underwriters"; in Indonesia, "co-operative incorporation" and "mutual company"; in Singapore, "society" registered under the Co-operative Societies Act; in Chinese Taipei, "co-operative"; in Vietnam, "mutual association").

A fit and proper requirement is referred to by eight economies (Hong Kong, India, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Vietnam). In Malaysia, the prior approval of the Bank

Negara Malaysia (BNM) is required for the appointment of a chief executive or director of an insurer. Applicants must not be disqualified under the Insurance Act 1996, must fulfil the minimum criteria of a "fit and proper" person as prescribed by the BNM, and except for non-executive directors representing a foreign shareholder of a licensee, must reside in Malaysia throughout the period of his/her appointment. In Singapore, an applicant is required to seek the prior approval from the supervisory authority for the appointment of the principal officer. In addition, the approval from the authority is required for the appointment of board directors of locally incorporated insurers, with an exception of captive insurers. The applicant has to satisfy the authority that the appointed principal officer and board directors (of locally incorporated companies) are fit and proper persons. The authority will then formally register the company so that it can commence business. Macau requires shareholders to be of good repute. The adequacy of reinsurance arrangement is mentioned by four economies (Hong Kong, India, Macau and the Philippines). Macau refers to the technical bases of tarification. Malaysia requires membership of relevant trade associations.

Licensing Procedures

Only five economies (Hong Kong, India, Indonesia, the Philippines and Singapore) explain their respective licensing procedures. In India, two sets of application are required. In three economies (Hong Kong, Indonesia and Singapore), a certain procedure is required before the submission of formal application. Hong Kong reports that an application can be determined within six months. India reports that, on the whole, from the time of filing the application till the final decision is reached on the grant of registration to an applicant, 10 to 12 weeks are expected to be taken. Indonesia reports that the maximum time needed to obtain approval (or rejection) is not more than 30 days after all documents required have been received. The Philippines reports that an application can be determined within five days if documents are complete. In this respect, it should be reminded that the item D/6 (Conditions for establishment and operation of branches and agencies of Foreign insurers) of the OECD Code of Liberalisation of Current Invisible Operations stipulates the deadline of six months from the date on which an application has been completed in all particulars.

The details in this respect are as follows: Hong Kong explains that (i) an applicant should have preliminary meetings with the supervisory authority to discuss its draft business plan prior to the submission of a formal application, (ii) on average an application is determined within six months, and (iii) "approval-in-principle" can be given prior to formal authorisation so that an applicant can carry out preparatory work for setting up an office. India reports the following procedure: The first set of application will take about eight to ten weeks for the authority to examine. This contains the business plan and the details of the proposed management structure. After a satisfaction is reached on the first set of application, the authority will call for further details in the second set of application and will take two to three weeks to process the application. In Indonesia, there are two stages in the licensing procedures: (i) principal approval and (ii) business licence. The application for business licence can only be submitted after the principal approval has been granted. For each stage, the maximum time needed to obtain approval (or rejection) is 30 days after all documents required have been received. Singapore reports the following procedure: Before submitting a formal application, a new applicant for an insurance licence has to (i) submit its business plan for the Authority's assessment and (ii) meet the Authority to discuss the proposed insurance operation. After this, the applicant can formally apply to the Authority by using a prescribed application form. The applicant would be able to receive a reply (either in-principle approval or rejection) from the Authority within one month or less from the date on which a complete application was received. A letter of in-principle approval specifies the conditions that the applicant must accept before it can be registered to carry out insurance business in Singapore. The applicant then has to complete the following registration requirements within six months: (i) registration under the Companies Act, (ii) lodgement of the statutory deposits (or bank covenant) of

S$500 000 for each class of business (except for captives), and (iii) payment of the annual fee. Once this process is complete, final approval can be given within a week.

Market Access

In all Asian economies, with the exception of Hong Kong, there are restrictions on market access in respect of the establishment of foreign insurers. In Cambodia, at present foreign insurers cannot enter into its insurance market, because the sub-decree stipulating the licensing requirements is not yet signed by the government. Once the sub-decree is signed by the government, foreign insurers will be allowed to enter into its insurance market, subject to the application of an economic needs test.

The application of an economic needs test, whereby applications might be rejected because of the excessive number of existing insurance companies, is reported by some Asian economies (India, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Vietnam). In Malaysia, the issuing of new licences to carry on direct insurance business is in fact currently suspended, on the grounds that there are a large number of insurers operating in this country. In Singapore, after the announcement of an open door admission policy dated 17 March 2000 for direct insurers other than captive insurers, an application will not be rejected on the basis of an excessive number of existing insurance companies. At present, the admission of new entrants would be subject to the following criteria; (i) domestic and international rankings, (ii) present and past credit ratings, (iii) track record and reputation, with regard to compliance with regulations and the strength of internal control systems, and (iv) commitment to contribute to Singapore's development as a regional insurance hub and international financial center. Applicants who have met the criteria will receive favourable consideration. However, the admission of new entrants may be paced out if necessary and if the supervisory authority has strong evidence that a sudden simultaneous entry of many new players, all intending to build up their market shares, may cause temporary market disruption.

Although Brunei does not report the application of an economic needs test, the maximum limit of foreign equity participation and the admissibility of branches of foreign insurers are decided on a case-by-case basis. The criteria to be used for such decisions are not mentioned (see also Note to "Licensing Requirements").

Thailand reports its progressive liberalisation policy on the insurance sector consisting of three stages. Stage 1, which allows joint ventures up to 25% of foreign equity participation, has been already implemented. After the amendments of life and non-life insurance acts which are currently under way, foreign equity participation from 25% up to 49% (Stage 2) will be allowed. More than 49% of foreign equity participation (Stage 3) will be allowed after five years' implementation of Stage 2.

In five Asian economies (Macau, the Philippines, Singapore, Chinese Taipei and Vietnam), a wholly-owned subsidiary is admissible, but subject to the application of an economic needs test. These five economies report that the same licensing requirements are applied to domestic insurers and foreign insurers. According to the WTO Commitments of the Philippines, market access is limited to (i) acquisition of up to 51% of the voting stock of an existing domestic insurance company, or (ii) investing up to 51% of the voting stock of a new locally incorporated insurance company, although these limitations are not applied to existing wholly or majority foreign-owned insurance/reinsurance companies as of the entry into force of the WTO Financial Services Agreement. Nonetheless, this country has confirmed that the new establishment of wholly-owned subsidiaries and branches of foreign insurers is allowed. In six Asian economies (Brunei, India, Indonesia, Malaysia, Sri Lanka and Thailand), a wholly-owned subsidiary is not admissible.

All of these six economies not allowing a wholly-owned subsidiary (Brunei, India, Indonesia, Malaysia, Sri Lanka and Thailand) allow joint ventures with foreign participation, subject to the limitations mentioned above. The maximum limit of foreign participation is as follows: case by case (in Brunei), 90% (in Sri Lanka), 80% (in Indonesia), 30% (in Malaysia), 26% (in India) and 25% (in Thailand – Stage 1). In Malaysia, foreign equity participation of 51% in a licensed direct insurer is allowed for existing foreign shareholders who are/were original owners of the insurer.

In the majority of Asian economies (Brunei, Hong Kong, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand), there exist branches of foreign insurers. Nonetheless, in all these economies, except for Hong Kong, the new establishment of branches of foreign insurers is subject to the limitations mentioned above.

Specialisation

In the majority of Asian economies (Brunei, Hong Kong, Malaysia, the Philippines, Singapore, Sri Lanka, Thailand and Vietnam), there exist currently composite insurers which concurrently carry on both life and non-life business. In Cambodia, composite insurers are admissible, although at present there exist no such insurers in this country. It seems, however, that the admissibility of composite insurers tends to be limited in Asian economies as well and that the specialisation principle will be increasingly applied in this region.

In Hong Kong, since November 1992, it has been the policy of the insurance authority not to grant any composite licence to insurance companies, except for reinsurance specialists. In Malaysia, under the Insurance Act 1996, except for reinsurance specialists, a new composite licence can no longer be granted, although composite insurers licensed prior to the implementation of the Insurance Act 1996 on 1 January 1997 are allowed to continue to conduct both life and non-life business (separate funds are required to be maintained for life and non-life business). In Thailand, the separation of composite insurers into life and non-life insurers has been completed by April 2000 as stipulated in the Insurance Act.

In Vietnam, life business is fairly new. In 1996, its Ministry of Finance allowed the Baoviet, the largest (State-owned) insurer in this country, to conduct life business on an experimental basis in addition to its traditional non-life business. The Baoviet is still the only composite insurer. Therefore, it is not yet certain whether the admissibility of composite insurers will become common practice in this country.

In Singapore, although the concurrent operation of life and non-life business is allowed, separate insurance funds have to be maintained for life and non-life business (see also "Solvency Requirements").

In Asian economies, it seems that the business scope of insurance companies is in principle restricted to insurance and other related activities. In this respect, Sri Lanka reports that insurance companies should be incorporated for the sole purpose of carrying on insurance business.

III. Solvency Supervision

Insurance Accounting Principles

The majority of Asian economies (Cambodia, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei, Thailand and Vietnam) report the adoption of specific insurance accounting principles. Four Asian economies (Brunei, Hong Kong and Sri Lanka) report no adoption of such principles. In this respect, Hong Kong explains that (i) it does not intend to adopt specific insurance accounting principles, (ii) however, the Insurance Companies Ordinance prescribes the disclosure requirements in respect of financial statements, and (iii) in addition, for solvency assessment purposes, the Insurance Companies (General Business) (Valuation) Regulation provides a standard and prudent basis for the determination of the value of assets and the amount of liabilities of non-life insurers, other than captive insurers (see also "Investment Regulation").

The situations reported by Asian economies in respect of insurance accounting principles are as follows: In India, the accounting principles contained in the regulations issued by the authority conform to a large extent to the International Accounting Standards (IAS) modified by the Generally Accepted Accounting Principles (GAAP). In Indonesia, the Generally Accepted Accounting Principles (GAAP) are applied for the purpose of taxation, whereas the Statutory Accounting Principles (SAP) are applied for the purpose of solvency margin analysis. In the Philippines, the Statutory Accepted Accounting Principles (SAAP) are applied, complemented by the GAAP. Similarly, in Singapore, specific insurance accounting principles laid out in the Insurance Regulations, in particular with regard to the valuation of assets, are complemented by the GAAP. In Chinese Taipei, the Accounting Principles of Life Insurance Enterprises and the Accounting Principles of Non-life Insurance Enterprises have been approved by the Ministry of Finance. In respect of the valuation of assets, the Criteria and Appraisal Standards for Admitted Assets are applied for the purpose of solvency margin analysis. In Malaysia, the accounting standards for insurance business have been formulated by the accounting bodies together with the Bank Negara Malaysia. These accounting standards cover investments, premiums, acquisition costs, claims and reinsurance to ensure consistency in the presentation of financial statements. Recently they have been revised to enhance transparency and disclosure in the financial statements of insurers. The new accounting standards developed by the Malaysian Accounting Standards Board, an independent authority to develop and issue accounting and financial reporting standards in Malaysia, were issued in January 2001 and will be applied for financial statements stating on and after 1 July 2001. Macau reports that the accounting principles to be adopted by insurers include the following concepts: (i) continuity of activity convention, (ii) consistency, (iii) realisation concept, (iv) historical cost concept, and (v) conservatism. In Vietnam, the accrued principles are applied.

Reporting

In all Asian economies except for Cambodia, insurance companies are required to submit periodically their financial documents to the insurance supervisory authority.

In ten Asian economies (Brunei, Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Vietnam), annual return is complemented by quarterly return. In Chinese Taipei and Thailand, annual return is even complemented by monthly return.

Although only Thailand reports that the supervisory body has the power to order insurance companies to submit other documents periodically or from time to time, it is understood that the supervisory

authorities in other Asian economies also have the power to order insurance companies to submit any relevant documents whenever necessary.

The content of quarterly return is in some cases very similar to that of annual return, although the quarterly return is not normally audited. The content of the quarterly return is as follows: "solvency report" (in Indonesia), "trial balance" (in Macau), "balance sheet, profit and loss account, revenue account and supporting schedules" (in Malaysia), "fund balance sheet and fund revenue account" (in Singapore), "details of gross premium, acquisition cost, reinsurance remittance, reinsurance commission, reinsurance claims, investment of reserves and share capital" (in Sri Lanka) and "premium income, claim payments, unearned premium provision, outstanding claim provision, equalisation provision, investments of insurance fund, profit and loss account, balance sheet and solvency" (in Vietnam).

On-site Inspection

In the majority of Asian economies excluding Brunei, Cambodia, India and Sri Lanka, on-site inspection is carried out. In Cambodia and India, the supervisory authority intends to conduct on-site inspection.

Macau and Thailand point out that the frequency of on-site inspections depends in particular on the seriousness of the situation.

The examples related to the periodicity of on-site inspections are as follows: "at least once every three years" (in Hong Kong), "normally once every three years and in special cases whenever it is necessary" (in Indonesia), "once every one to three years, depending on the financial condition of an insurer" (in Malaysia), "at least once a year, and whenever it is necessary" (in the Philippines), "once a year for screened companies, and perform target examinations whenever necessary" (in Chinese Taipei) and "from time to time" (in Vietnam).

In Malaysia, the periodicity of on-site inspections is also based on the Risk-Based Approach (RBA) to examination which was adopted by the Bank Negara Malaysia (BNM) in 1997. This approach emphasises dynamic off-site financial surveillance in order to focus on-site examinations on areas that expose insurers to the greatest degree of risk and in this way facilitate the early detection of problems faced by insurers. In Singapore, the supervisory authority has adopted a new approach to supervise insurance companies, which is known as Risk-Based Supervision Approach (RBA). This method integrates on-site and off-site inspections into one seamless approach. The scope of inspection still includes agency, underwriting, reinsurance, claims, accounts, internal controls and management of daily operations, but resources are allocated towards the specific areas commensurate with the level of risks associated with those particular areas. The frequency of inspections for the higher-risk areas would also be greater.

Solvency Requirements

All Asian economies except for Cambodia have adopted solvency requirements for insurance companies. In Cambodia, the supervisory authority intends to adopt such requirements.

In Singapore, insurers are required to establish and maintain a separate fund (i) for each class of insurance business related to Singapore policies (the Singapore Insurance Fund (SIF)), and (ii) for each class of insurance business related to offshore policies (the Offshore Insurance Fund (OIF)).

Insurers are required to maintain a Solvency Margin for each insurance fund as well as the Company Solvency Margin. The Company Solvency Margin is stipulated as a fixed amount, which is determined by types of insurers (life or non-life only, composite, or captive). In this country, the supervisory authority is reviewing the current solvency margin requirements by introducing a valuation and risk-based capital framework for supervising the local insurance industry. The authority expects that the new risk-based framework could better capture the diverse and unique risk profiles of the different insurers and facilitate regulation in a more reactive manner and this would help to ensure that insurers maintain adequate capital, being reflected by the aggregate exposures of each individual insurer to various types of risks.

In some Asian economies (Hong Kong, India, Malaysia, the Philippines, Singapore and Thailand; in Macau, for non-life business only), the solvency margin has to reach at least a certain fixed amount, which is applied if the result of stipulated calculation does not exceed such an amount.

In some Asian economies (Brunei, Indonesia and Sri Lanka; Macau, the Philippines and Thailand, for non-life business only), the solvency margin is determined 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). Sri Lanka reports that almost all insurance companies currently maintain well above 10% of the net premium income of the previous year and therefore it will shortly be raised to 30%. In Macau, the solvency margin is determined based on gross premium income for the previous year. However, a certain aspect of loss situation is taken into account. In this economy, the solvency margin is doubled when an insurer registers an abnormal loss ratio during the preceding three consecutive years or during any three years of the preceding five years. Indonesia has recently applied the Risk-Based Capital (RBC) method so that various risk factors can be taken into account.

In Chinese Taipei, the same calculation is applied for both life and non-life business. In this economy, the balance of admitted assets minus liabilities has to meet an amount that is equal to three times the deposit amount, i.e. an amount equal to 45% of the total amount of an insurer's paid-in capital or paid-in fund. In this economy, a Risk-Based Capital approach has recently been taken into account. The new method will be applied in two years after the draft of the Insurance Law has been promulgated.

Apart from the situations mentioned above, for life business, solvency margin is in principle based on "mathematical reserves and capital at risk" (in Hong Kong and India), "mathematical reserves or capital at risk" (in Macau), "actuarial valuation liability, sums at risk etc." (in Malaysia), "total insurance amount of all policies except term insurance" (in the Philippines), "liabilities and sum insured at risk" (in Singapore for SIF Solvency Margin), "liabilities" (in Singapore for OIF Solvency Margin) and "reserve fund" (in Thailand).

Apart from the situations mentioned above, for non-life business, solvency margin is in principle based on "premium income and/or outstanding claims (or incurred)" (in Hong Kong, India, Malaysia and Singapore (both SIF Solvency Margin and OIF Solvency Margin)).

In most Asian economies, the solvency margin can be monitored by the supervisory body on a quarterly basis (see also "Reporting").

Technical Provisions

All Asian economies, excluding Brunei and Cambodia, have adopted principles or guidelines related to the setting-up or calculation of technical provisions. In Hong Kong, except mortgage guarantee business, there are no specific regulations prescribing principles and/or guidelines concerning the

setting up and/or calculation of technical provisions for non-life insurance companies. However, they are still required to provide adequate reserves for unearned premiums and outstanding claims including IBNR. In the case of non-life business, "unearned premium reserve" or "unexpired risk reserve" is referred to by most Asian economies (in India, 50% of premium income except for marine hull, for which 100% of premium income is required; in the Philippines, 40% method; in Singapore, not less accurate than 1/24 method; in Malaysia, Sri Lanka and Thailand, in principle 1/24 method; in Indonesia and Macau, daily pro rata basis method). Concerning loss reserves, in Singapore, it is stipulated that loss reserves should be estimated by using a proper and consistent method based on properly collated claims statistics. In this country, the discounting of loss reserves is not allowed for statutory returns submitted under the Insurance Act, in line with the need for conservatism. Macau refers to "loss ratio variation reserve" for credit insurance only, and Vietnam refers to "equalisation provision" for non-life insurance.

Investment Regulation

(a) Evaluation Method of Investments

Eight Asian economies (India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand) report the existence of insurance legislation concerning the evaluation method of investments. Five Asian economies (Brunei, Cambodia, Hong Kong, Sri Lanka and Vietnam) report the non-existence of such insurance legislation. In this respect, Hong Kong explains that (i) there are no provisions in the insurance legislation concerning the evaluation method of investments, however, (ii) for solvency assessment purpose, the Insurance Companies (General Business) (Valuation) Regulation provides a standard and prudent basis for the valuation of assets of non-life insurers, other than captive insurers (see also "Insurance Accounting Principles"). In Hong Kong, for each category of assets, the maximum admitted value and its valuation base are stipulated. For example, for "land and buildings" and "listed shares or securities, unit trusts or mutual funds", the maximum admitted value is respectively "net book value plus 75% of appreciation in value" and "100%, 90% or 75% of market value, depending on credit rating".

Macau reports that the evaluation method of investments is based on historical cost concept. On the other hand, in three Asian economies (India, Indonesia and Thailand), market valuation is in principle used. In Malaysia and Singapore, the lower of cost or market value is in principle used, with some exceptions related to "immovable property", "Malaysian Government Security or other bonds" etc. (in Malaysia) and "land, buildings and fixed assets" (in Singapore). In the Philippines, the lower of cost or market value is used for shares. In Chinese Taipei, in principle, historic valuation is used for bonds, whereas the lower of cost or market value is used for shares.

(b) Content of Investment Regulation

In all Asian economies, except Brunei and Cambodia, there exist legal provisions concerning investments by insurance companies.

In all of these economies, such provisions 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.

Three economies (India, Sri Lanka and the Philippines) report the existence of minimum limits. Examples of minimum limits are as follows. In India, life insurers have to invest at least 50% of total assets in government securities and other approved securities and at least 15% of total assets in infrastructure and social sector. Likewise, non-life insurers have to invest at least 35% of total assets in government securities and other approved securities and at least 10% of total assets in infrastructure and social sector. In Sri Lanka, 50% of the reserves including share capital should be invested in government securities, and the rest in approved investments which are detailed in the Insurance Act. In the case of non-life business, 30% of the reserves including share capital should be invested in government securities, and the rest in approved investments. The minimum limits for investments in government securities will be reduced to 30% and 20% respectively, with the enactment of proposed amendments to the Insurance Act. The concept of "the reserves including share capital" is somewhat difficult to understand. Likewise, in the Philippines, insurers are required to invest at least the amount corresponding to 25% of the minimum paid-up capital in bonds or evidences of debt issued by the government or governmental institutions.

The examples of investment regulations covering a set of maximum limits, in most cases together with admissible (and/or non-admissible) investments, could be classified into the following three types:

i) a set of maximum limits associated with the solvency assessment purpose -- In Hong Kong, for non-life insurers other than captive insurers, the Insurance Companies (General Business) (Valuation) Regulation sets out upper admissibility limits, as a certain percentage of total eligible asset, on different categories of investments. Any excess in value in this respect will be disregarded for the solvency assessment purpose. Similarly, in Singapore, there are investment requirements for the Singapore Insurance Fund (SIF). The regulations set maximum limits on respective categories of investment. Insurers may invest beyond the prescribed limits, but assets in excess of the maximum limits are non-admitted for the purpose of determining fund solvency margin. The regulations also limit investment in related companies and restrict the amount of unsecured loans to directors and employees. There are no specific investment requirements for offshore business. However, insurers are expected to exercise prudence in their investments. In this country, the supervisory authority is reviewing its current framework on asset valuation and asset admissibility as part of the review to adopt a new Risk-Based Capital approach for insurance companies. In Malaysia, the Bank Negara Malaysia sets the types of assets and their limits which are admissible for supporting the solvency margin and liabilities. Assets in excess of the maximum limits are not allowed for the purpose of supporting the liabilities and the margin of solvency of an insurer. Therefore, insurers without sufficient admitted assets have to bring in new admitted assets or replace non-admitted assets with admitted assets. In this country, there are also provisions which prohibit insurers from granting unsecured credit facilities, granting credit facilities to related parties, acting as guarantors or entering into transactions where a material gain can accrue to its directors.

ii) a set of maximum limits not associated with the solvency assessment purpose -- In Macau and Vietnam, for insurance fund assets, the supervisory authority lays down the maximum limit for each category of admitted assets. In Chinese Taipei and Thailand, the maximum limits are set for the total assets for insurance companies. These maximum limits are not associated with the solvency assessment purpose.

iii) a limited number of maximum limits -- In the Philippines, the Insurance Code stipulates admissible and non-admissible assets. The maximum limits are observed in relatively limited aspects such as the investment in housing project (25% of total admitted assets), the investment in real property (25% of total admitted assets) and the investment in any single

institution (10% of total admitted assets). These maximum limits are not connected with the solvency assessment purpose.

Only Hong Kong refers to the existence of a localisation requirement. In this economy, non-life insurers, excluding captive insurers and professional reinsurers, are required to maintain assets in Hong Kong in an amount that is not less than the aggregate of 80% of its liabilities arising from Hong Kong insurance business and the solvency margin applicable to its Hong Kong insurance business. Any limitations and restrictions related to investments abroad observed in other Asian economies could be regarded as "implicit" localisation requirements (see also "Portfolio Investment Abroad").

Only Hong Kong refers to the existence of requirements related to currency matching and maturity matching. In this economy, life insurers are required, in determining the amount of its long-term liabilities, to take into account the nature and term of the assets representing liabilities, which include currency matching and interest rates.

In some Asian economies, the proportional weight of "other investments" (investments other than real estate, shares, bonds and loans) in total investments is very high, in particular compared with that of four big insurance markets in the OECD (see Table 5 and Table 6). In particular, in non-life business, "other investments" account for more than 50% in five Asian economies (Hong Kong, Indonesia, Macau, Chinese Taipei and Thailand), not necessarily because of investment regulations.

(c) Portfolio Investment Abroad

In six Asian economies (Hong Kong, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei), portfolio investments abroad are in principle allowed.

The details in this respect are as follows:

i) In Hong Kong, there are no restrictions on portfolio investments abroad. However, non-life insurers, excluding captive insurers and professional reinsurers, are required to maintain assets in Hong Kong in an amount that is not less than the aggregate of 80% of its liabilities arising from Hong Kong insurance business and the solvency margin applicable to its Hong Kong insurance business. Life insurers are required to take into account the nature and term of the assets representing liabilities, which include currency matching.

ii) In Macau, there are no restrictions on portfolio investments abroad. For insurance fund assets, however, the supervisory authority lays down the maximum limit for each category of admitted assets, and such assets have to be "pledged" to the authority. The term "pledged" means that the Monetary Authority of Macau has legal control over the disposal of insurance fund assets. A joint custodian account would be necessary for investments in overseas securities, if such assets are utilized to cover the technical reserves.

iii) In Malaysia, insurers are allowed to invest up to 5% of "the solvency margin and liabilities" ("the Amount") in foreign assets in a jurisdiction whose sovereign rating is not lower than that of Malaysia. Investment in any one foreign jurisdiction is also restricted to up to 2% of "the Amount". These restrictions apply only to the Malaysian insurance fund. With respect to the insurance fund maintained for foreign insurance policies, insurers are allowed to hold investments in a foreign jurisdiction to meet their liabilities in that jurisdiction.

iv) In the Philippines, foreign currency denominated investments are widely allowed without any proportional ceiling. They are subject to certain conditions such as a credit rating of BB+ or better for foreign governments' issues, a credit rating of at least BBB for foreign corporation issues, etc. Investments in venture capital, which are considered as surplus investments, are subject to the prior approval of the Insurance Commission.

v) In Singapore, the admitted value of investments in foreign-currency denominated and overseas assets is limited to 30% of the Singapore Insurance Fund (SIF) assets. In addition, investments of up to 10% of the SIF assets in "synthetic" Singapore dollar assets are also permitted. Foreign-currency denominated fixed income assets that are fully hedged to the Singapore dollar can be deemed as synthetic Singapore dollar assets, subject to certain conditions.

vi) In Chinese Taipei, the maximum limit of foreign investments is 20% of the total equity and reserves.

In five Asian economies (India, Indonesia, Sri Lanka, Thailand and Vietnam), portfolio investments abroad are not allowed or strictly restricted (in Indonesia, except placement in insurance companies; in Sri Lanka, sectors related to insurance only: in Thailand, an insurer may invest abroad only by purchasing the shares or debentures, up to 5% of its assets, issued by a legal entity established under the Agreement of the Association of South East Asian Nations (ASEAN) or the Economic and Social Committee for Asian and Pacific (ESCAP) to undertake reinsurance business only).

Reinsurance

(a) Regulation and Supervision on Reinsurance Arrangements

Seven Asian economies (Hong Kong, India, Macau, Malaysia, the Philippines, Singapore and Sri Lanka) refer to the regulation or supervision on reinsurance arrangement. Brunei reports the non-existence of such regulation or supervision. It is not reported by other Asian economies whether and how reinsurance arrangements are regulated and supervised. In Hong Kong, direct insurers are required to submit to the supervisory authority information on their material reinsurance arrangements. In India, direct insurers have to submit their reinsurance program to the supervisory authority for review 45 days before the start of every financial year. In Macau, details of reinsurance arrangements form part of licensing requirements. Once established, the supervision of reinsurance arrangements is carried out on the basis of annual returns submitted to the supervisory authority and through on-site inspections. In Malaysia, the Insurance Act 1996 requires that reinsurance arrangements be in accordance with sound insurance principles. The reinsurance arrangements of insurers are monitored through on-site inspection and returns in a specific format submitted to the supervisory authority. If it is found that insurers have unhealthy reinsurance arrangements, they will be requested to review the arrangements so that they are consistent with sound insurance principles. The authority is empowered to take the necessary action including imposing penalties. In the Philippines, every insurer has to report to the supervisory authority in a prescribed form the particulars of any new treaty or changes in existing treaties together with a copy of the treaty itself so that the authority can monitor the insurer's compliance with the pertinent laws, rules and regulations on reinsurance. In Singapore, except for financial reinsurance for life business, direct insurers are not required to submit reinsurance arrangements to the authority for approval. However, the supervisory authority does specify as one of the conditions in the letter of in-principle approval for applicants that insurers should maintain suitable and adequate retrocession arrangements, and they are required to inform the authority immediately if

any of the arrangements has or is likely to be rendered inadequate or ineffective. In Sri Lanka, copies of reinsurance agreements should be submitted. In this country, all remittances require the prior approval of the insurance supervisory authority.

(b) Regulation and Supervision on Reinsurance Specialists

In all Asian economies excluding Cambodia and Sri Lanka, where no reinsurance specialists currently exist, reinsurance specialists are in general subject to the same regulation and supervision as direct insurers (in Brunei, in the absence of the Insurance Act, any application to undertake reinsurance business should be forwarded to the Ministry of Finance for approval). Exceptions in this respect are as follows: (i) in Hong Kong, reinsurance specialists are not subject to the local asset requirement; (ii) in India and Macau, the requirements in relation to capital, establishment fund and the margin of solvency are higher; (iii) in Singapore, reinsurance specialists are subject to lower fund solvency margin etc.; (iv) in Malaysia, there are differences in respect of minimum capitalisation requirement and reserving for unexpired risks for Malaysian policies (Malaysian branches of foreign reinsurance specialists are required to maintain a lower amount of minimum solvency margin), and (v) in Chinese Taipei, the Central Reinsurance Corporation Act is exclusively for the Central Reinsurance Corporation, which is State-owned and the sole professional reinsurance company.

(c) Domestic Retention Requirements

In seven Asian economies (India, Malaysia, the Philippines, Sri Lanka, Chinese Taipei, Thailand and Vietnam), there exist domestic retention requirements. Four Asian economies (Brunei, Hong Kong, Macau and Singapore) report the non-existence of such requirements.

In Singapore, there is no domestic retention requirement. However, during the licensing procedure, insurers are encouraged to retain as much as is practicable in Singapore. The non-life insurance industry on its own has entered into a reinsurance agreement to cede a certain percentage of their domestic business to the Singapore Reinsurance Corporation, a publicly-listed local reinsurer.

The examples of domestic retention requirements are as follows. In India, for non-life, the percentage of compulsory cession to a national reinsurer could be up to 30%. The current operative ratio is 20%. In the Philippines, non-life insurers have to cede to the National Reinsurance Corporation of the Philippines at least 10% of their outward reinsurance placed with unauthorised foreign reinsurers. In Sri Lanka, 15% of gross written premium of fire and marine insurance should be ceded to the National Insurance Corporation Ltd., which is fully State-owned. This requirement, however, will be removed under the proposed amendments. In Chinese Taipei, the Central Reinsurance Corporation shall have the priority to accept reinsurance from domestic ceding companies. In Thailand, compulsory local retention for fire is Bht 20 000 000 per policy, and compulsory local retention for marine cargo is Bht 2 000 000 per policy. In addition to these statutory requirements, there are several market agreements including voluntary cession to the Thailand Reinsurance Co., Ltd. which was established under the joint ownership of all life and non-life insurers in this country. In Vietnam, insurers have to cede a certain share of risks of direct insurance contracts to the National Reinsurance Company.

In Malaysia, various measures have been put in place in order to optimise the national retention, such as (i) the voluntary cessions arrangement between insurers and the Malaysian National Reinsurance Berhad, the national reinsurer; (ii) the licensing of new foreign professional reinsurers; (iii) the implementation of the Scheme for Insurance of Large and Specialised Risks to optimise the utilisation

of local capacity for large and specialised risks; and (iv) general encouragement to utilise local reinsurance capacity before ceding abroad.

(d) Cross-border Reinsurance Transactions

All Asian economies allow cross-border reinsurance transactions. The following limitations, however, are reported (see also "(c) Domestic Retention Requirement"). In India and Malaysia, such transactions are admissible only after utilising the reinsurance capacity available locally. In the Philippines, such transactions are admissible only through a resident agent registered with the supervisory authority. The "resident agent" here means one duly appointed by a foreign insurer or broker not authorised to do business in the Philippines to receive on its behalf notices, summons and legal processes in connection with actions or other legal proceedings against such a foreign insurer or broker.

Supervision on Policy Conditions and Premium Rates

In most Asian economies except Brunei, Cambodia, Hong Kong and Indonesia, there exists supervision on policy conditions and premium rates when new products are launched (or when existing products are revised). In Hong Kong, the insurance supervisory authority is prohibited from intervening in policy wordings and premium rates, although it monitors the market trend and the development of the industry. For certain classes of insurance, however, the Hong Kong Federation of Insurers, a representative body of insurers in Hong Kong, provides its members with reference premium rates, but leaves its members to determine their own premium rates.

In four Asian economies (India, Sri Lanka, Chinese Taipei and Thailand), all classes of insurance are subject to supervision on policy conditions and premium rates (in Chinese Taipei, except for classes of insurance which are international in nature and related to special circumstances). In India, motor, fire, engineering, marine hull and workmen's compensation are tariff lines. In Sri Lanka, policy conditions of life and non-life products should be filed with the supervisory authority, whereas premium rates for motor, employees liability and fire are fixed by the authority. In Chinese Taipei, policy conditions and premium rates are subject to the approval system, with three classes of insurance (motor, fire and fishing vessel) being tariff lines, while products of life and accident insurance are subject to "file and use". In Thailand, policy conditions and premium rates are subject to the approval system.

In Macau, only compulsory classes of insurance (motor third party liability insurance, employees' compensation insurance, professional liability insurance for travel agents, and public liability insurance for neon signs) are subject to supervision on policy conditions and premium rates. In Vietnam, besides compulsory classes of insurance (motor third party liability insurance and Contractor's All Risks (CAR) insurance for government funded projects), insurance of person is subject to the supervision on policy conditions and premium rates. In Malaysia, two classes of insurance (motor and fire) are governed by tariffs which set the standard minimum rates, and life insurance is subject to "file and use". For two classes of insurance governed by tariffs, any change of policy conditions and premium rates requires the approval of the supervisory body. In Singapore, only life insurance is subject to supervision. The policy conditions and premium rates of non-investment linked policies are subject to "file and use", whereas the policy conditions and premium rates of investment linked policies are subject to the prior approval. It is explained that in the case of non-life, insurers are only required to consult the authority for introducing policies insuring risks that are new in the non-life insurance market of this country. In India, its non-life market is essentially a tariff market.

The Tariff Advisory Committee (TAC), which is a statutory body, determines policy conditions and premium rates. If there is a breach of any of these, insurers are liable to penalty.

In the Philippines, supervision on premium rates is less stringent than that on policy conditions. In this country, all policy conditions of both life and non-life insurance are subject to prior approval. Premium rates of life products are subject to prior approval. As for premium rates of non-life products, only motor and bonds are tariff lines. Premium rates for fire insurance were liberalised in May 2000.

Claims Data Collection on a Broader Basis

Some Asian economies (Brunei, India, Indonesia, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei) report the existence of a single body which collects claims data, such as loss frequency and loss severity, of individual insurers so that claims data of individual companies can be shared among a broader group of insurance companies and thus adequate premium rates can be calculated on a broader statistical basis. In this respect, it should be noted that the overall data of gross claims (and loss ratios) cannot be regarded as sufficient to calculate adequate premium rates.

In Macau and Singapore (in Singapore, for life), the supervisory authority itself collects such data and makes them available to the industry. Apart from the supervisory authorities themselves, insurance industry associations play an important role in this respect in some Asian economies (in Brunei and Chinese Taipei; in Indonesia, for motor insurance and fire insurance; in Malaysia, for motor insurance and fire insurance; in Singapore, for non-life). In Hong Kong, for certain classes of insurance, an insurance association provides its members with reference premium rates, but leaves its members to determine their own premium rates. It should be noted that this association does not collect any insurance statistics from its members. It contracts out the claims study to consultancy firms, e.g. actuarial firms, which collect the data required for analysis.

In the Philippines, the Insurance Commission monitors the claims data through the annual statements submitted by all insurance companies. These data are collated by the Insurance Commission for all classes of insurance so that the adequacy of premium rates can be monitored. At the same time, the Philippine Insurance Rating Association (PIRA), a licensed rating organisation, sets the policy conditions and premium rates for non-life insurance.

Actuary

In most Asian economies except Brunei, Cambodia and Vietnam, the appointment of an actuary is obligatory. In eight economies (Hong Kong, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Thailand), only life insurers (and composite insurers) are required to appoint an actuary. In India and Chinese Taipei, both life insurers and non-life insurers are required to employ actuaries.

In India, Malaysia and Singapore, the appointment of an actuary is subject to the approval of the authority. In the Philippines, the Commissioner is directly responsible for the direction and supervision of all actuarial work. In India, the change of an appointed actuary has to be notified to the supervisory authority. In Hong Kong, a consultation relationship is maintained between the supervisory authority and the Actuarial Society of Hong Kong, an association of the actuarial profession, on actuarial matters concerning life insurers and other industry issues, although there is no formal relationship between actuaries and the supervisory authority. In Macau, the relationship

between actuaries and the supervisory authority is mainly based on reporting and consultation purposes.

Nine Asian economies report the existence of the minimum qualification to be an actuary. Of these nine economies, four economies (Hong Kong, Malaysia, Singapore and Sri Lanka) mention as a required qualification the membership of foreign professional bodies such as the Institute of Actuaries of England (Hong Kong, Malaysia, Singapore and Sri Lanka), the Faculty of Actuaries in Scotland (Hong Kong, Malaysia, Singapore and Sri Lanka), the Society of Actuaries of the United States of America (Hong Kong, Malaysia and Singapore), the Institute of Actuaries of Australia (Hong Kong, Malaysia and Singapore) and the Canadian Institute of Actuaries (Malaysia).

The statutory duties of an actuary are related to calculating technical provisions and/or evaluating policy liabilities (in Hong Kong, India, Indonesia, Macau, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand). The following statutory duties of an actuary are also mentioned: (i) calculating or examining premium rates (India, Indonesia, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand); (ii) monitoring or calculating solvency margin (Hong Kong, Macau, Singapore and Thailand); (iii) designing products (India, Indonesia and Malaysia); (iv) monitoring the distribution of surplus to policyholders (Malaysia and Singapore); (v) assisting the formulation of suitable investment policy (Singapore).

In Malaysia and Singapore, in addition to duties mentioned in the previous paragraph, an actuary is required to fulfil a much broader monitoring duty, though related to life business only. In Malaysia, the appointed actuary has to monitor all developments in the insurer which may have an impact on its financial condition and has to report them to the insurer. Malaysia explains that it is incumbent upon the appointed actuary to ensure, so far as it is within his/her authority, that the life insurance business of the insurer be operated on a sound financial basis. In Singapore, an actuary has to report in writing to the principal officer any matter which has come to his/her attention in the course of carrying out his/her duties, and has in his/her opinion any material adverse effect on the financial condition of the insurer in respect of its life business, and has to require rectification by the insurer. Where an appointed actuary is of the opinion that the insurer has failed to take appropriate steps to rectify the matter within a reasonable time, the actuary shall send a copy of his/her report to the supervisory authority and notify the board of directors of the insurer that he/she has done so.

Likewise, in Hong Kong, legislative amendments have been made for the implementation of a fully-fledged appointed actuary system commencing with year 2001, which has extended the role of the appointed actuary to all actuarial aspects of financial management of life business such as premium setting, reinsurance and detection/reporting of irregularities and required him/her to follow the prescribed professional standard or other comparable standards.

Auditor

In all Asian economies except Vietnam, the appointment of an auditor is obligatory for all insurers, irrespective of which business, life or non-life, they conduct.

In Malaysia, Singapore and Chinese Taipei, an auditor has to be approved by the authority. In Malaysia, the authority has the power to appoint an auditor if the insurer fails to appoint an auditor within the specific time. The authority also has the power to appoint another auditor to act with the auditor who has already been appointed, if the authority considers it desirable. In Hong Kong, a consultation relationship is maintained between the supervisory authority and the Hong Kong Society of Accountants, a body of the accountancy profession, on accounting and reporting issues in relation

to insurance companies, although there is no formal relationship between auditors and the supervisory authority. In Macau, the relationship between auditors and the supervisory authority is based mainly on reporting and consultation purposes.

Seven Asian economies report the existence of a minimum qualification to be an auditor. The following examples are mentioned: "the membership of the Institute of Chartered Accountants of India" (in India), "the qualification of CPA" (in Indonesia), "auditing firms registered with the Finance Department" (in Macau), "certified public accountant" (in the Philippines), "the membership of the Institute of Chartered Accountants of Sri Lanka" (in Sri Lanka) and "registration at the Board of Supervision of Auditing Practices" (in Thailand).

The statutory duties of an auditor are related to checking and certifying the process and content of financial accounts (in Hong Kong, India, Indonesia, Macau, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand). The following statutory duties of an auditor are also mentioned: (i) giving opinion on whether the insurer is able to meet the solvency margin requirement (Hong Kong); (ii) making statements on financial reports (Indonesia); (iii) checking whether the insurer complied with provisions related to assets guaranteeing technical reserves (Macau), etc.

In Malaysia and Singapore, in addition to duties mentioned in the previous paragraph, an auditor is required to fulfil a much broader monitoring duty. The broader statutory duty of an auditor observed in Malaysia and Singapore seems to be parallel to that of an actuary stipulated in these two countries (see also "Actuary"). In Malaysia, an auditor has to report to the supervisory authority immediately when he/she finds contravention of provisions of the Insurance Act 1996, offence involving fraud or dishonesty committed by the insurer or its employees, or any irregularity which jeopardises the interest of policyholders and creditors of the insurer, or when he/she finds that the available assets of the insurer are just adequate or less than adequate to meet its solvency margin. Similarly, in Singapore, an auditor has to report to the authority any serious breach or non-observance of the regulatory provisions, any criminal offence involving fraud or dishonesty, any transaction or dispute that will have a material effect on the solvency margin, serious irregularities that jeopardise policyholders' interests, or when the insurer is unable to meet its obligations.

IV. Insurance Companies in Financial Difficulties

Reference to Solvency Margin

Ten Asian economies (Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei and Thailand) explicitly state that they refer to the solvency margin in order to find out insurance companies in financial difficulties. In this respect, Malaysia points out that, although solvency compliance is an important criterion in assessing the financial condition of an insurer, financial ratios and industry benchmark are also important tools in developing an early warning indicator on potential problematic insurers.

Possible Measures

Five Asian economies (Indonesia, Malaysia, Singapore, Sri Lanka and Thailand) report the existence of an "early warning system". However, no Asian economy reports the existence of specific guidelines which systematically indicate what kind of measures can (or should) be taken in what circumstances, in particular based on certain ratios related to the solvency margin (a typical example is

"Risk-Based Capital" in the United States, whereby the Risk-Based Capital Ratio determines the Action Level such as No Action Level, Company Action Level, Regulatory Action Level, Authorised Control Level and Mandatory Control Level). In this respect, Singapore explains that the exact measures to be taken depend on the circumstances of each case.

Nevertheless, various measures to be taken are reported by all Asian economies except Brunei. The examples of possible measures mentioned by Hong Kong are as follows (excluding "portfolio transfer" which is dealt with under "Portfolio Transfer"): (i) to require a plan for restoration of a sound financial situation; (ii) to require injection of capital; (iii) to prohibit free disposal of assets; (iv) to prohibit certain investments; (v) to require custody of assets by the supervisory authority or approved trustees; (vi) to restrict acceptance of new business or renewal of existing business; (vii) to limit the amount of premium income; (viii) to require actuarial investigation; (ix) to conduct on-site examination of books of account and records; and (x) to appoint a special manager or advisor to take over control/management or give directions on the affairs of the insurer. Most of these measures are mentioned by other Asian economies as well. Besides these measures, Singapore mentions the following measures: (xi) to remove any director or person whom the supervisory authority considers unfit; (xii) to make reinsurance arrangements as the Authority specifies; (xiii) to admit reputable foreign insurers to inject capital into the insurer in financial difficulties. Finally, Chinese Taipei points out the possibility (xiv) to order the insurer to cease doing business or to dissolve.

Portfolio Transfer

Seven Asian economies (Hong Kong, India, Indonesia, Macau, Malaysia, Singapore and Thailand) report that the organisation of portfolio transfers by the supervisory body is feasible before the actual bankruptcy of an insolvent insurance company.

Three Asian economies (Hong Kong, Macau and Singapore) report that portfolio transfer is subject to the decision of the supervisory authority or the court. In Hong Kong, court sanction is required in the case of life business, and approval by the supervisory authority is required in the case of non-life business. In Macau, the prior authorisation of the authority is required. In Singapore, portfolio transfer is effected by a transfer scheme approved by the High Court.

Policyholders' Protection Fund

Note: "Policyholders' Protection Fund" is here defined as funds/systems which will be triggered when an insurance company has either fallen into a critical condition which may result in its inability to pay the claims already filed or those to be made later, or has actually gone into liquidation.

In the majority of Asian economies, excluding Cambodia, Sri Lanka, Thailand and Vietnam, there exist policyholders' protection funds. In Sri Lanka, however, the new Act, which is expected to be in operation in the first quarter of 2001, has provisions to establish a policyholders' protection fund. The fund could be created once the new Act is in operation. In three Asian economies (Brunei, India and Indonesia), statutory deposit can function as a policyholders' protection fund.

In Brunei, only compulsory motor third party liability insurance is covered by a policyholders' protection fund. In this country, statutory deposit of 1 million Brunei Dollars in the form of "bank guarantee", which is required for motor third party liability insurance, functions as a policyholders' protection fund. In Hong Kong, motor third party liability insurance and employee's compensation insurance, both of which are compulsory insurance, are covered respectively by the Insolvency Fund

administered by the Motor Insurers' Bureau of Hong Kong and the Employees' Compensation Assistance Fund. These funds are financed by levies charged on motor insurance premiums and employees' compensation insurance premiums. In Macau, in relation to motor third party liability insurance and third party liability insurance for pleasure vessels, both of which are compulsory insurance, the Motor and Marine Guarantee Fund (MMGF) is established to pay compensation for death or bodily injuries resulting from traffic and marine accidents involving motor vehicles and pleasure vessels in case of bankruptcy of the insurers. The scope of the MMGF is limited to death and bodily injury, whereas the respective compulsory third party liability insurance for motor vehicles and pleasure vessels covers property damages, in addition to death and bodily injury.

In Singapore, in addition to compulsory insurance (motor third party death and injury liability insurance and workmen's compensation insurance), life insurance is covered. The Monetary Authority of Singapore has the power to impose levy on insurers to establish the Policy Owners' Protection Fund. The scope of coverage is 90% for life insurance and 100% for compulsory insurance (motor third party death and injury liability insurance and workmen's compensation insurance).

In three Asian economies (Malaysia, the Philippines and Chinese Taipei), 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, full compensation or if not possible up to whatever can be covered by the fund; in Chinese Taipei, full compensation). In these three economies, the fund (or account) for life insurance and that for non-life insurance are separately managed (in the Philippines and Chinese Taipei, life insurers and non-life insurers contribute separately). In the Philippines, no payment is made to any person who owns or controls 10% or more of the voting shares of the insolvent insurer, which is a very interesting limitation to avoid "moral hazard risk". In the Philippines, claims in the case of national emergency or calamity may be covered, because these claims otherwise would not be compensated under policy conditions.

Liquidation Procedure

Six Asian economies (Hong Kong, Indonesia, Macau, Malaysia, Singapore and Chinese Taipei) report the existence of the preferential status of policyholders in the liquidation procedure of bankrupt insurance companies. For example, in Singapore, policyholders have priority of claims over all unsecured liabilities of the insurer other than certain preferential debts specified in the Companies Act, such as corporate taxes and wages of employees.

Thailand reports that, although in this country there is no measure which can be applied to protect policyholders' interest in the liquidation procedure, the Department of Insurance will work closely with the insurance association and some insurance companies with strong financial positions to arrange portfolio transfers (see also "Portfolio Transfer").

Cases of Insurance Companies in Financial Difficulties for 1997-1999

Note: This section deals with cases where the insurance supervisory authorities in Asian economies actually took measures over the last three years (1997-1999) in order to deal with insurance companies in financial difficulties before or after they went bankrupt.

Eight Asian economies (Brunei, Cambodia, India, Indonesia, Macau, Sri Lanka, Chinese Taipei and Vietnam) report the non-existence of such cases.

Three Asian economies (Hong Kong, Malaysia and Thailand) report only one case each. In Hong Kong, the supervisory authority petitioned the court for the winding up of a bankrupt insurer's Hong Kong branch in order to preserve the bankrupt insurer's assets in Hong Kong. This was intended to protect the local policyholders' interests in view of the liquidation proceedings taking place at its head office outside Hong Kong. No policyholders in Hong Kong suffered financial losses in this case. Hong Kong explains that the most difficult task or consideration of the supervisory authprity was the urgent need to appoint a special manager to take over the affairs of the insurer's Hong Kong operation and to assess the impact of its insolvency on the Hong Kong policyholders before considering petition to the court for the winding up of the bankrupt insurer's Hong Kong branch office. In Malaysia, a non-life insurer was placed under close monitoring by the Bank Negara Malaysia (BNM) due to its failure to maintain the minimum solvency margin requirement. The financial condition of the company was closely monitored to prevent further deterioration. Measurers taken included requiring the company to submit key financial information to the BNM on a monthly basis and to obtain approval from the BNM before incurring expenses exceeding a stipulated amount. On-site examinations were also conducted on the company on an annual basis. The principal considerations in the actions taken by the BNM were the protection of policyholders' interests and prevention of further erosion of the solvency margin, which would lead to eventual insolvency. In this case, the policyholders did not suffer any financial losses, because the business of the company was transferred to another insurer. Under the scheme of transfer, the acquiring company was required to honour all insurance liabilities (including contingent liabilities) of the acquired company. In Thailand, for a non-life insurer, the license was revoked because of the financial failure. This company had to be liquidated. In this case, some large claims had not been fully paid.

The Philippines reports two cases which were caused by the failure to make good the deficiency of solvency margin and the capital impairment. In both cases, not all claims were paid in full.

In Singapore, during the Asian Financial Crisis of 1997/1998, a few life insurers were required to designate assets from their shareholders' fund to meet the solvency of their life insurance funds. Based on year end 1999 audited results and appointed actuary's certification, all life companies were solvent. No policyholders suffered financial losses.

V. Other Issues

Cross-border Insurance Transactions other than Reinsurance

In Asian economies, the admissibility of cross-border insurance transactions other than reinsurance is rather restricted. In four Asian economies (India, Indonesia, the Philippines and Sri Lanka), such transactions are prohibited. In Malaysia, the prior approval of the supervisory authority is required for the following risks; (i) movable or immovable property located in this country, including any ship or aircraft registered in this country, and (ii) liability of a person resident in this country to a third party. Approval will be granted if such insurance is not available from any licensed direct insurer in this country. In addition to risks which are not required to be insured in this country, insurance brokers licensed in this country are allowed to intermediate contracts which have been approved by the supervisory authority for placement abroad. In Chinese Taipei, marine, aviation and transport (MAT) insurance can be transacted on a cross-border basis, and in Thailand, in addition to MAT, life insurance can be transacted on a cross-border basis. In Thailand, however, insurance brokers established in this country are not allowed to intermediate such cross-border transactions. In Cambodia, marine hull and marine cargo can be transacted on a cross-border basis. It is not clear, however, whether brokers established in this country are allowed to intermediate such cross-border

transactions. In Brunei, motor insurance can be transacted on a cross-border basis. However, insurance brokers established in this country are not allowed to intermediate such cross-border transactions.

In three economies (Hong Kong, Macau and Singapore), all classes of insurance other than compulsory insurance can be transacted on a cross-border basis (in Hong Kong, the insurer concerned must not maintain a place of business or be represented by any insurance agents in Hong Kong). In these economies, however, the intermediation by insurance brokers established in these economies is restricted. In Hong Kong, insurance brokers established in this economy can intermediate cross-border transactions, only when the insurance cover required is not available in this economy. In Macau, without the specific authorisation of the supervisory authority, insurance intermediaries in this economy are not allowed to conduct intermediary business for residents of this economy with insurers not licensed in this economy. In Singapore, insurance brokers registered in this country cannot place domestic risks with unregistered overseas insurers unless they seek prior approval from the supervisory authority. They are allowed to source from foreign insurers only when the type of cover, in terms of both nature and scope, required by the client is not available from insurers established in this country. Exceptions in this respect include risks outside this country, and insurance risks related to maritime liabilities of ship owners as insured by Protection and Indemnity Club.

Compulsory Insurance

All Asian economies report the existence of compulsory insurance. In all Asian economies, motor third party liability insurance is compulsory (in the Philippines, motor third party liability insurance can be replaced with a certain amount of surety bond issued by an insurance company or cash deposit). It should be noted that, in nine Asian economies (Brunei, Cambodia, Hong Kong, Indonesia, Malaysia, the Philippines, Singapore, Chinese Taipei and Thailand), the scope of the compulsory coverage for motor third party liability insurance is restricted to death and bodily injury only. In India, Macau, Sri Lanka and Vietnam, the scope of compulsory coverage for motor third party liability insurance includes property damage in addition to death and bodily injury. The second most important compulsory insurance in Asian economies is compensation insurance related to employees or workmen. In five Asian economies (Brunei, Hong Kong, Indonesia, Macau and Singapore), employees' compensation insurance is compulsory, and in Malaysia, workmen's compensation insurance for foreign workers is compulsory for all employers.

The number of compulsory classes of insurance in each Asian economy ranges from one (in Sri Lanka and Thailand, motor third party liability insurance only) to five (in Macau, motor third party liability insurance, employees' compensation insurance, professional liability insurance for travel agents, public liability insurance for neon signs, and third party liability insurance for pleasure vessels). The rationale of these classes of insurance being compulsory is explained to be the protection of victims.

As specific regulations applicable to compulsory classes of insurance, the following examples have been reported. In Chinese Taipei, the policy conditions and premium rates of compulsory automobile insurance must be determined by the Ministry of Finance (MOF) and the Ministry of Transportation and Communication. The premium rates of compulsory third party liability insurance for the Taipei Rapid Transit Corporation shall be approved by both the Ministry of Transportation and Communications and the MOF. As for compulsory third party liability insurance for entertainment businesses, premium rates are determined by insurance companies based on the reference rates approved by the MOF. In Indonesia and Macau, the supervisory authority regulates the policy conditions and premium rates of compulsory classes of insurance. In Sri Lanka, the supervisory authority fixes the tariff of motor insurance. In Vietnam, insurers have to insure the risks. In Hong

Kong, higher amounts of minimum capital and solvency margin are required from non-life insurers carrying on compulsory classes of insurance. In Malaysia, the insurance industry has established the Malaysian Motor Insurance Pool (MMIP), in order to ensure the availability of motor insurance covers. Since the risks underwritten by the MMIP are risks which have been rejected by insurers in Malaysia, the imposition of additional loading and the application of excess above market levels are allowed. In Singapore, in view that there are certain risks with high level of hazards, the insurance industry has set up a Special Risks Pool to provide at least compulsory insurance coverage for motor tankers and other specialised motor risks which individual insurers are not willing to take up.

Insurance Distribution

In all Asian economies except India, both insurance agents and insurance brokers are admissible. In India, insurance brokerage system is being introduced. All Asian economies, except Brunei and Cambodia, have insurance legislation related to insurance intermediaries.

In most Asian economies, the entry into insurance intermediation business, in particular brokerage business, is fairly regulated and supervised. Examples in this respect are as follows; both agents and brokers subject to licence to be renewed every six months (in the Philippines), agents to be registered with the insurance associations and brokers subject to licence to be renewed every year (financially strong and well-managed brokers can apply for licences valid for two years) (in Malaysia), agents subject to license to be renewed every three years (in India), both agents and brokers subject to licence (in Thailand), brokers subject to licence (in Indonesia), agents to be registered with the Insurance Agents Registration Board and brokers subject to either authorisation from the Insurance Authority or membership of an insurance brokers' body approved by the Insurance Authority (in Hong Kong), both agents and brokers to be registered with the competent authority (in Chinese Taipei), agents to be registered with the industry associations, and brokers to be registered with the supervisory authority (in Singapore), brokers to be registered with the supervisory body (in Sri Lanka), and application procedures stipulated for both agents and brokers (in Macau).

Accordingly, the minimum qualification to enter into intermediation business is stipulated in most of these Asian economies (for both agents and brokers, in Hong Kong, Malaysia, Singapore, Chinese Taipei and Thailand; for brokers only, in the Philippines and Sri Lanka; for agents only, in India). The requirement related to professional liability insurance or guarantee for insurance brokers is stipulated in seven Asian economies (Hong Kong, Macau, Malaysia, the Philippines, Singapore, Sri Lanka and Chinese Taipei). In this respect, in Chinese Taipei, insurance agents also are required to provide financial guarantee or professional liability, the amount of which is identical to the amount required for insurance brokers.

In respect of independence requirement for insurance brokers, Sri Lanka reports that a broker is allowed to place up to 50% of its business with a single insurer.

Five economies (Hong Kong, India, Malaysia, Singapore and Thailand) report the self-regulatory function of industry associations in respect of insurance intermediaries. In Hong Kong, insurance intermediaries are subject to a self-regulatory system supported by legislation. In this economy, a person intending to act as an insurance broker has to either seek authorisation from the Insurance Authority or apply to become a member of a body of insurance brokers approved by the Insurance Authority. In order to be authorised as an insurance broker or be accepted as a member of an approved body of insurance brokers, he/she has to satisfy the minimum requirements specified by the Insurance Authority. There are currently two bodies of insurance brokers approved by the Insurance Authority: the Hong Kong Confederation of Insurance Brokers and the Professional Insurance Brokers

Association Limited. They are responsible for ensuring that their member brokers comply with the minimum requirements for insurance brokers. As for insurance agents, the Hong Kong Federation of Insurers, a representative body of insurance companies, is responsible for the implementation of the self-regulation system. This representative body handles the registration of insurance agents and ensures their compliance with the Code of Practice issued by this body. In this economy, the Insurance Intermediaries Quality Assurance Scheme (IIQAS) has been implemented since 2000, to enhance the professional standard of insurance intermediaries. It comprises a publicly held qualifying examination system and a requirement to attend a continuing professional development programme, i.e. courses organised by accredited bodies and recognised training programmes. In general, all insurance intermediaries, their chief executives and technical representatives are required to pass the qualification examination before admission and to attend a continuing professional development programme as a condition for re-registration. In India, the Insurance Institute of India takes part in the examination of agents. In Malaysia, the life and general insurance associations are primarily responsible for the registration, regulation and professional development of agents. In Singapore, industry associations play an important self-regulatory function such as administering the registration of agents and brokers and ensuring that they meet the minimum requirements on qualification and comply with codes of conduct and agreement on disclosure standards set by the associations. In Thailand, the Thai Life Assurance Association takes part in the examination of agents.

Bancassurance

In most Asian economies except for Chinese Taipei, the maximum percentage of insurers' shares held by banks is not less than the maximum percentage of banks' shares held by insurers. In six Asian economies (Hong Kong, Indonesia, Macau, Malaysia, the Philippines and Singapore), banks are allowed to hold up to 100% of insurance companies' shares (in Singapore, subject to the approval of the authority). Of these six economies, in five economies (Hong Kong, Indonesia, Macau, the Philippines and Singapore), insurance companies also are allowed to hold up to 100% of banks' shares. In Malaysia, insurance companies are allowed to hold up to 20% of banks' shares. In India, banks are allowed to hold up to 50% of insurance companies' shares, whereas insurance companies are allowed to hold only up to 2% of banks' shares. Likewise, in Sri Lanka, banks are allowed to hold up to 20% of insurance companies' shares, whereas insurance companies are allowed to hold up to 5% of banks' shares. In Thailand, insurance companies are allowed to hold up to 10% of banks' shares, and banks are allowed to hold up to 10% of insurers' shares. On the other hand, in Chinese Taipei, insurance companies are allowed to hold up to 5% of banks' shares, whereas banks are not allowed to hold insurance companies' shares.

In Asian economies, the creation of insurance subsidiaries by banks is more widely admissible than the creation of banking subsidiaries by insurers. In nine Asian economies (Brunei, Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore and Vietnam), the creation of insurance subsidiaries by banks is admissible. Of these nine economies, in five economies (Hong Kong, Indonesia, Macau, the Philippines and Singapore), the creation of banking subsidiaries by insurance companies is also admissible, while in the other four economies (Brunei, India, Malaysia and Vietnam) the creation of banking subsidiaries by insurance companies is not admissible. In three economies (Sri Lanka, Chinese Taipei and Thailand), neither are admissible. Sri Lanka points out that banks are allowed to create insurance brokerage subsidiaries. Hong Kong points out that insurance companies have to ensure that the creation of banking subsidiaries does not pose a threat to the interest of their policyholders.

In Asian economies, the distribution of insurance products by banks is more widely admissible than the distribution of financial products other than insurance by insurers. In eight Asian economies

(Hong Kong, India, Indonesia, Macau, Malaysia, the Philippines, Singapore and Chinese Taipei), the distribution of insurance products by banks is admissible. Hong Kong and Macau point out that banks have to fulfil requirements as insurance intermediaries. Chinese Taipei reports that banks may apply to the supervisory authority for registration to engage themselves in property insurance brokerage operations related to banking business. In this economy, however, a separate department shall be established for such operations with independent capital operations and accounting. In three Asian economies (Brunei, Sri Lanka and Vietnam), the distribution of insurance products by banks is not admissible. On the other hand, only three economies (Hong Kong, Malaysia and Singapore) report that the distribution of financial products other than insurance by insurers is admissible, while seven economies (Brunei, India, Indonesia, the Philippines, Sri Lanka, Chinese Taipei and Vietnam) report that it is not admissible. Hong Kong points out that insurance companies have to ensure that the distribution of financial products other than insurance is not contrary to the interest of their existing and potential policyholders. Singapore points out that insurance companies may have to seek license under the relevant Acts such as the Banking Act before they can engage themselves in such an activity. Macau reports that, in addition to traditional insurance products, life insurers are allowed to commercialise products which include insurance, savings and investment components, e.g. unit-linked and universal life products.

Tax Incentives for Life Insurance Products

Six Asian economies (India, Malaysia, Singapore, Sri Lanka, Chinese Taipei and Thailand) report the existence of tax incentives for life insurance products. In these Asian economies, the premium paid for life insurance is deductible for the income tax purpose up to a certain prescribed maximum amount.

In India, Malaysia and Singapore, contribution to a provident fund (in India and Malaysia, Employees Provident Fund; in Singapore, Central Provident Fund, a mandatory retirement fund) is also deductible. In Singapore, the amount of tax deduction allowable is the lower of the annual insurance premiums payable or 7% of the capital sum assured. Furthermore, the maximum deduction in respect of insurance products purchased together with the contributions to the Central Provident Fund is capped at S$5 000 annually. In Malaysia, premium paid for insurance related to education or medical benefits is also deductible up to a certain maximum amount. In addition, individuals who purchase annuities by using their Employees Provident Fund contributions enjoy additional tax relief up to a maximum of RM1 000 per annum over and above the existing tax relief of RM5 000 for contributions to approved provident funds and life insurance premiums. In this country, the sums received by way of annuities under annuity contract issued by Malaysian life insurers, whose majority ownership is Malaysian-held, is exempted from tax. In Malaysia, the acceleration of the development of the life insurance sector is currently one of the main policy issues. Therefore, various measures, including tax incentives, are currently pursued.

Insurance Industry Associations

In most Asian economies except Cambodia and Vietnam, there exist insurance industry associations. Vietnam plans to establish an insurance association early next year. In most of these economies, industry associations play a self-regulatory function in respect of the following aspects:

i) setting of codes of practice: Six Asian economies (Hong Kong, Malaysia, the Philippines, Singapore, Sri Lanka and Chinese Taipei) report the self-regulatory function in this respect.

ii) insurance intermediaries: In five economies (Hong Kong, India, Malaysia, Singapore and Thailand), the self-regulatory function of industry associations in respect of insurance intermediaries is important (see also "Insurance Distribution").

iii) arbitrary settlement: Indonesia reports this function.

iv) policy conditions and premium rates (see also "Claims Data Collection on a Broader Basis"): In Indonesia and Malaysia, insurance associations play a significant role in the setting of standard policy form and adequate premium rates for motor and fire insurance. In the Philippines, the Philippine Insurance Rating Association, a licensed rating organisation for non-life insurance, sets the policy conditions and premium rates in non-life insurance.

Besides the functions mentioned above, Malaysia and Singapore point out that insurance industry associations serve as platforms through which the Authority discusses various issues of regulatory concerns with the industry. Similarly, Hong Kong reports that the Insurance Authority may from time to time liaise with the Hong Kong Federation of Insurers on legislative matters and market developments.

Singapore also reports the initiative of the insurance associations to organise the Insurance Ombudsman Bureau.

Table 1 **Direct Premiums Written (1999)**

Country	**Direct Premiums Written** million US$			**Density US$ per Inhabitant** (Direct Premiums /Population)			**Penetration %** (Direct Premiums/GDP)			**Life Insurance Share %**
	Life	Non-life	Total	Life	Non-life	Total	Life	Non-life	Total	
Brunei	41	18	58	123.37	52.92	176.29	-	-	-	69.98
Cambodia	0	10	10	0.00	0.91	0.91	0.00	0.32	0.32	0.00
Hong Kong	5,294	1,701	6,995	787.71	253.10	1,040.81	3.33	1.07	4.40	75.68
India[1]	5,304	2,023	7,327	5.46	2.08	7.55	1.29	0.49	1.78	72.39
Indonesia	-	-	-	-	-	-	-	-	-	-
Macau	83	42	125	190.63	96.00	286.63	1.36	0.68	2.04	66.51
Malaysia	1,873	1,443	3,316	82.47	63.54	146.02	2.38	1.83	4.21	56.48
Philippines	559	445	1,004	7.28	5.80	13.07	0.73	0.58	1.31	55.68
Singapore	3,815	871	4,686	979.66	223.80	1,203.46	4.49	1.03	5.52	81.40
Sri Lanka	75	116	191	3.92	6.11	10.03	0.47	0.74	1.21	39.06
Chinese Taipei	13,914	5,996	19,910	632.45	272.55	905.00	4.85	2.09	6.95	69.88
Thailand	1,598	1,193	2,791	25.85	19.30	45.15	1.29	0.96	2.25	57.26
Vietnam	32	109	141	0.42	1.43	1.85	0.11	0.38	0.49	22.70
OECD average (1998)				954	862	1,816	4.58	4.14	8.71	54.34[2]

Notes

(1) Financial Year 1.4.1998 – 31.3.1999

(2) total gross premiums basis

Table 2 **Number of Insurance Companies**
(as of the end of 1999)
(life/non-life/composite/reinsurance)

Country	Life	Non-Life	Composite	Reinsurance	Total
Brunei	3	18	2	1	24
Cambodia	0	1	0	0	1
Hong Kong[1]	42	119	15	28	204
India	1	5	0	0	6
Indonesia	62	107	0	4	173
Macau	9	15	0	0	24
Malaysia	7	38	11	11	67
Philippines[2]	37	109	3	4	153
Singapore[3]	9	90	7	47	153
Sri Lanka	1	3	6	0	10
Chinese Taipei	33	27	0	1	61
Thailand	24	74	1	1	100
Vietnam	3	9	1	1	14

Notes

(1) as of 31October 2000

(2) In addition to the 153 insurance companies appearing in this table, there exist five public entities providing specific insurance services.

(3) as of 27 June 2000

Table 3 **Number of Insurance Companies**
(as of the end of 1999)
(State-owned/national private/foreign-controlled/branches)

Country	State-owned Companies(1)	National Private Companies(2)	Foreign-controlled Companies(3)	Branches and Agencies of Foreign Companies	Total
Brunei	2	11	4	7	24
Cambodia	1	0	0	0	0
Hong Kong(4)	0	24	73	107	204
India	6	0	0	0	6
Indonesia	4	123	46	0	173
Macau	0	1	6	17	24
Malaysia(5)	1	3	12	11	67
Philippines(6)	0	125	22	6	153
Singapore(7)	0	19	75	59	153
Sri Lanka	2	6	2	0	10
Chinese Taipei	2	27	5	27	61
Thailand	2	93	0	5	100
Vietnam(8)	4	3	3	0	14

Notes
(1) State-owned companies means companies whose majority (50% or more) of the controlling powers belongs to the State.
(2) National private companies means companies whose majority (50% or more) of the controlling powers belongs to national entities excluding State-owned companies.
(3) Foreign-controlled companies means companies whose majority (50% or more) of the controlling powers does not belong to national entities excluding branches and agencies of foreign companies.
(4) As of 31 October 2000.
(5) There are 40 insurers which are included in the total but not in the sub-categories. These companies are controlled by Malaysian public companies, joint-ventures between local entities and foreign companies etc.
(6) In addition to the 153 insurance companies appearing in this table, there exist five public entities providing specific insurance services.
(7) As of 27 June 2000.
(8) There are 4 insurers which are included in the total but not in the sub-categories. These companies are joint-venture companies between foreign insurers and Vietnamese local insurers.

Table 4 **Number of Employees of Insurance Companies**
(As of the end of 1999)

Country	Number of employees	Premium/ employee in US$
Brunei	272	214,338
Cambodia	150	66,667
Hong Kong	10,600	659,906
India[(1)]	208,814	35,089
Indonesia	n.a	n.a
Macau	308	407,143
Malaysia	19,079	173,820
Philippines	18,000	55,778
Singapore	6,617	708,161
Sri Lanka	6,706	28,482
Chinese Taipei	279,012	71,359
Thailand	30,046	92,891
Vietnam	5500	25,636
OECD average (1998)	-	601,742

Note:
(1) as of 31 March 1999

Table 5
Investments by Direct Insurance Companies: Percentages by Classes of Investment
(as of the end of 1999)

Brunei

	Life %	Non-life %
Real Estate	-	59.76
Shares	-	-
Bonds	98.26	-
Loans	1.74	5.49
Other Investments	-	34.76
Total	100.00	100.00

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (continued)**
(as of the end of 1999)

Cambodia

	Life %	**Non-life %**
Real Estate	n.a.	n.a.
Shares	n.a.	n.a.
Bonds	n.a.	n.a.
Loans	n.a.	n.a.
Other Investments	n.a.	n.a.
Total	100.00	100.00

Hong Kong(*)

	Life %	**Non-life %**
Real Estate	n.a.	3.22
Shares	n.a.	7.54
Bonds	n.a.	6.78
Loans	n.a.	2.59
Other Investments	n.a.	79.87
Total	100.00	100.00

(*) The amounts relate only to assets maintained in Hong Kong by non-life insurers pursuant to the statutory local asset requirements.

India(*)

	Life %	**Non-life %**
Real Estate	0.06	0.84
Shares	7.12	26.83
Bonds	70.35	37.89
Loans	22.26	16.22
Other Investments	0.21	18.22
Total	100.00	100.00

(*) as of 31March 1999

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (continued)**
(as of the end of 1999)

Indonesia

	Life %	Non-life %
Real Estate	5.31	0.58
Shares	12.30	4.46
Bonds	4.36	1.90
Loans	8.68	0.03
Other Investments	69.36	93.03
Total	100.00	100.00

Macau

	Life %	Non-life %
Real Estate	1.18	6.98
Shares	0.82	4.53
Bonds	33.47	4.53
Loans	2.62	9.67
Other Investments	61.90	74.30
Total	100.00	100.00

Malaysia

	Life %	Non-life %
Real Estate	5.76	6.67
Shares	19.94	12.43
Bonds	36.90	32.50
Loans	19.93	4.24
Other Investments(*)	17.47	44.16
Total	100.00	100.00

(*) 'Other Investments' includes fixed deposits/money market, foreign assets and government papers with maturity period of less than one year.

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (continued)**
(as of the end of 1999)

Philippines

	Life %	**Non-life %**
Real Estate	11.56	14.31
Shares	23.07	24.96
Bonds	40.66	30.72
Loans	18.27	2.44
Other Investments	6.43	27.57
Total	100.00	100.00

Singapore (*)

	Life %	**Non-life %**
Real Estate	7.27	5.82
Shares	21.54	16.27
Bonds	36.72	31.56
Loans	15.77	2.71
Other Investments	18.70	43.64
Total	100.00	100.00

(*) The amounts relate to admitted assets only.

Sri Lanka

	Life %	**Non-life %**
Real Estate	1.23	5.11
Shares	4.67	23.14
Bonds	69.04	33.43
Loans	10.24	0.15
Other Investments	14.82	38.24
Total	100.00	100.00

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (continued)**
(as of the end of 1999)

Chinese Taipei

	Life %	Non-life %
Real Estate	9.91	11.62
Shares	6.50	19.85
Bonds	12.99	12.54
Loans	33.76	3.45
Other Investments (*)	36.85	52.54
Total	100.00	100.00

(*) "Other Investment" includes bank deposits, treasury bills, overseas investments and authorized projects and public investment.

Thailand

	Life %	Non-life %
Real Estate	-	-
Shares	8.01	16.39
Bonds	30.14	8.34
Loans	21.42	5.03
Other Investments	40.43	70.24
Total	100.00	100.00

Vietnam

	Life %	Non-life %
Real Estate	n.a.	n.a.
Shares	n.a.	n.a.
Bonds	n.a.	n.a.
Loans	n.a.	n.a.
Other Investments	n.a.	n.a.
Total	100.00	100.00

Table 6

Investments by Direct Insurance Companies: Percentages by Classes of Investment

Examples of the Four Big OECD Insurance Markets (1998)

United States

	Life %	Non-life %
Real Estate	1.47	1.26
Shares	6.63	30.51
Bonds	70.04	59.46
Loans	16.73	0.23
Other Investments	5.14	8.54
Total	100.00	100.00

Japan

	Life %	Non-life %
Real Estate	5.07	5.97
Shares	17.21	19.60
Bonds	32.82	29.51
Loans	30.83	20.71
Other Investments(*)	14.07	24.21
Total	100.00	100.00

(*) "Foreign Shares and Bonds" are included in "Other Investments".

Germany

	Life %	Non-life %
Real Estate	3.72	4.42
Shares	6.61	13.02
Bonds	11.13	14.47
Loans	59.01	46.95
Other Investments	19.52	21.14
Total	100.00	100.00

United Kingdom

	Life %	Non-life %
Real Estate	8.07	2.29
Shares	52.10	24.47
Bonds	36.76	63.76
Loans	2.48	6.28
Other Investments	0.59	3.21
Total	100.00	100.00

Table 7 **Insurance Supervisory Bodies**

Country	Name of Supervisory Body (and role, if more than one body)	Financed by:	Number of Employees
Brunei	Financial Institutions Division, Ministry of Finance	State budget	20
Cambodia	Financial Industry Department Ministry of Economy and Finance	State budget	20
Hong Kong	Office of the Commissioner of Insurance	The government which partly recovers the costs by fees collected from insurers and insurance brokers	91
India	Insurance Regulatory and Development Authority	Mainly by insurers	19
Indonesia	Insurance Commissioner's Office, Directorate General of Financial Institutions, Ministry of Finance	State budget	86
Macau	Insurance Supervision Department, Monetary Authority of Macau (AMCM)	Supervisory levy and other registration charges through the AMCM.	16(1)
Malaysia	Bank Negara Malaysia (BNM)(2)	self-funding	150
Philippines	Insurance Commission, Department of Finance	State budget	248
Singapore	Insurance Department, Financial Supervision Group, Monetary Authority of Singapore (MAS)(3)	Insurers (self-financing through annual fees (licence fees) collected from insurers)	53
Sri Lanka	Insurance Division, Ministry of Finance and Planning	State budget	17
Chinese Taipei	Department of Insurance, Ministry of Finance	State budget	56
Thailand	Department of Insurance, Ministry of Commerce	State budget	525
Vietnam	Insurance Supervisory Division, Ministry of Finance	State budget	14

Notes:

(1) In addition, 3 legal advisors of the Legal Affairs Department of the AMCM play a supporting role.

(2) The Bank Negara Malaysia (BNM) is the Central Bank of Malaysia. The administration and supervision of the industry is carried out by two departments in the BNM; the Insurance Regulation Department (IRD) and the Insurance Supervision Department (ISD). The IRD is responsible for the overall health and development of the insurance industry. The ISD is responsible for the financial health of individual insurers/reinsurers/takaful operators.

(3) The Monetary Authority of Singapore (MAS), which is the central bank, is responsible for the regulation and supervision of all financial institutions.

Table 8 **Licensing Requirements**

Country	Legal Form[1]	Minimum Capital	Minimum Solvency Margin	Business Plan	Fit and Proper of Management	Others	Time Lag[2]
Brunei		Y[3]					
Cambodia		Y[4]		Y			
Hong Kong	locally incorporated company or association of underwriters	Y[5]	Y[5]	Y (3 years)	Y	Adequacy of reinsurance arrangement	6 months[6]
India	locally incorporated company under Companies Act	Y[7]	Y[7]	Y (5 years)	Y	Adequacy of reinsurance arrangement	10 to 12 weeks [8]
Indonesia	limited company, co-operative incorporation or mutual company	Y[9]		Y (3 years)			Within 30 days for each of two stages; (i) principal approval, and (ii) business licence [10]
Macau	locally incorporated company	Y[11]	Y[12]	Y (3 years)	Y	-technical bases of tarification -details of reinsurance programs -shareholders being of good repute	
Malaysia	public company	Y[7]	Y	Y (3 years)	Y[13]	membership of trade associations	
Philippines	locally incorporated company	Y[7]	Y	Y (3 years)	Y	Adequate reinsurance arrangements	Within 5 days provided documents are complete
Singapore	company or society	Y[14]		Y (3 to 5 years)	Y[15]		[16]
Sri Lanka	locally incorporated company	Y[11], [17]		Y (3 years)			
Chinese Taipei	company limited by shares or co-operative	Y[4]		Y (5 years)	Y		
Thailand	limited company or public limited company	Y[11]		Y (5 years)			
Vietnam	company or mutual	Y[17], [18]		Y (5 years)	Y		

Notes : Y: Yes N: No

(1) Excluding branches of foreign insurers

(2) Time lag means how long on average it takes for a licence to be granted (or refused) from the date on which a complete application has been received.

(3) As an administrative measure, a minimum capital requirement is imposed on non-life insurers.

(4) A single amount is stipulated for all types of insurers.

(5) Different amounts are stipulated for different types of insurers; non-life insurer with statutory business, non-life insurer without statutory business, life insurer, composite insurer with statutory business, composite insurer without statutory business, reinsurer and captive insurer.

(6) An applicant should have preliminary meetings with the supervisory authority to discuss its draft business plan prior to the submission of formal application. An application will on average be determined within six months. Approval-in-principle will be given prior to formal authorisation so that the applicant can carry out preparatory work for setting up an office.

(7) Different amounts are stipulated for direct insurers and reinsurance specialists.

(8) The period of examination by the authority of an application is divided into two parts. The first set of the application will take about 8 to 10 weeks for the authority to examine. This contains the business plan and the details of the proposed management structure. After a satisfaction is reached on the first set of application, the authority will call further details in the second set of application and will take about 2 to 3 weeks to process that application. On the whole, from the time of filing the application till the final decision is reached on the grant of registration to an applicant, 10 to 12 weeks are expected to be taken.

(9) Different amounts are stipulated for local companies and joint venture companies.

(10) The application for business licence can be submitted only after the principal approval has been granted.

(11) Different amounts are stipulated for life insurers and non-life insurers.

(12) The relevant amount is to be based on the business projections and calculated according to the provisions of the Macau Insurance Ordinance.

(13) In Malaysia, the prior approval of the Bank Negara Malaysia (BNM) is also required for the appointment of a chief executive officer or director of an insurer. Applicants must not be disqualified under the Insurance Act (1996), must fulfil the minimum criteria of a "fit and proper" person as prescribed by the BNM, and except for non-executive directors representing a foreign shareholder of a licensee, must reside in Malaysia throughout the period of his/her appointment.

(14) Different amounts are stipulated for captive insurers and all other insurers.

(15) An applicant is required to seek prior approval from the supervisory authority for the appointment of the principal officer. In addition, approval from the authority is required for the appointment of board directors of locally incorporated insurers, with the exception of captive insurers. Captive insurers are only required to inform the authority of such appointments. The applicant has to satisfy the authority that the principal officer and board directors (of locally incorporated companies) appointed are fit and proper persons. The authority will then formally register the company so that it can commence business.

(16) Before submitting a formal application, a new applicant for insurance licence has to (i) submit its business plan for the Authority's assessment and (ii) meet the Authority to discuss the proposed insurance operation. After this, the applicant can formally apply to the Authority by using a prescribed application form. The applicant would be able to receive a reply (either in-principle approval or rejection) from the Authority within one month or less from the date on which a complete application has been received. A letter of in-principle approval specifies the conditions that the applicant must accept before it can be registered to carry on insurance business in Singapore. The applicant then has to complete the following registration requirements with six months; (I) registration under the Companies Act, (ii) lodgement of the statutory deposit (or bank covenant) of S$500,000 for each class of business (except for captives), and (iii) payment of the annual fee. Once this process is completed, final approval can be given within a week.

(17) Amounts are expressed in US$ term.

(18) Different amounts are stipulated for "branches and subsidiaries" of foreign insurers and all other insurers.

Table 9 **Licensing: Market Access**

Country	Application of Economic Needs Test	Establishment by Foreign Insurers		
		Admissibility of Wholly-owned Subsidiaries	Admissibility of Joint Ventures (maximum limit of foreign participation)	Admissibility of Branches
Brunei	-	N	Y (the maximum limit is formulated on case by case basis)	Y (but on case by case basis)
Cambodia	Y(1)	Y(1)	Y (49%)(1)	Y(1)
Hong Kong	N	Y	Y (without the maximum limit)	Y
India	Y	N	Y (26%)	N
Indonesia	N	N	Y (80%)	N
Macau	Y	Y	Y (without the maximum limit)	Y
Malaysia	Y(2)	N	Y (30%) (3)	N (4)
Philippines(5)	Y	Y(6)	Y(6)	Y(6)
Singapore	Y(7)	Y	Y(8)	Y
Sri Lanka(9)	N	N	Y(90%)	N
Chinese Taipei	Y	Y	Y	Y
Thailand	(10)	N	Y (25%)	(11)
Vietnam	Y	Y	Y (no legal maximum limit)	Y

Notes: Y: Yes N: No -: not available

(1) At present foreign insurers cannot enter into the Cambodian insurance market because the sub-decree stipulating the licensing requirements is not yet signed by the government. Once the sub-decree is signed by the government, foreign insurers will be allowed to enter into the Cambodian insurance market.

(2) In fact, there is currently a freeze on the issuance of new licences to carry on direct insurance business as there are a large number of insurers operating in the Malaysian insurance industry.

(3) Foreign equity participation of 51% in a licensed direct insurer is allowed for existing foreign shareholders who are/were original owners of the insurer.

(4) Under the Insurance Act 1996, which came into force on 1 January 1997, only professional reinsurers may operate via branches in Malaysia. Existing branches of foreign direct insurers are required to transfer their assets and liabilities into a public company incorporated under the Companies Act 1965.

(5) Applicants must be among the top 200 foreign insurance or reinsurance companies or intermediaries in the world or the top ten in their country of origin and have been doing business for the last ten years as of the date of application. Applicants must be widely-owned and/or publicly listed in its country of origin unless its majority is owned by the government.

(6) According to its WTO Commitments, market access is limited to (i) acquisition of up to 51% of the voting stock of an existing domestic insurance company, or (ii) investing up to 51% of the voting stock of a new locally incorporated insurance company, although these limitations are not applied to existing wholly or majority foreign-owned insurance/reinsurance companies as of the entry into force of the WTO Financial Services Agreement. Nonetheless this country has confirmed that the new establishment of wholly-owned subsidiaries and branches of foreign insurers is allowed.

(7) After the announcement of an open door admission policy dated 17 March 2000, an application will not be rejected on the basis of an excessive number of existing insurance companies. Presently, the admission of new entrants would be subject to the following criteria.

(a) Domestic and international rankings;

(b) Present and past credit ratings;

(c) Track record and reputation, with regard to compliance with regulations and the strength of internal control systems;

(d) Commitment to contribute to Singapore's development as a regional insurance hub and international financial centre.

Applicants who have met the criteria will receive favourable consideration. However, the admission of new entrants may be paced out if necessary and if the supervisory authority has strong evidence that a sudden simultaneous entry of many new players, all intending to build up their market shares, may cause temporary market disruption.

(8) The cap on foreign acquisition of locally incorporated direct insurers of up to 49% was removed in the recent liberalization of the insurance industry.

(9) The amendments to the insurance law are currently being considered. Once they are enacted, foreign equity participation may be allowed.

(10) Thai government has formulated its policy on Progressive Liberalisation on insurance sector in the following three stages. At present stage 1 has been implemented.

Stage 1: To permit entry of new domestic insurance companies. Joint ventures are also allowed with up to 25% of foreign equity participation. This stage was completed with the establishment of 25 new companies, being 12 life and 13 non-life insurance companies.

Stage 2: To allow higher foreign equity participation from 25% up to 49%. This stage is now underway concerning the amendment of life and non-life insurance Acts.

Stage 3: To allow equity participation higher than 49%. This is the consequence following stage 2 after the new laws have been in effect for five years.

(11) Branches of foreign insurers have to fulfil the same requirements as domestic insurance companies.

Table 10 **Specialisation**

Country	Admissibility of Composite Insurers (*)	Existence of Provisions Related to Cross-sectoral Investments(**)
Brunei	Y	N
Cambodia	Y	-
Hong Kong	Y(1)	N
India	N	-
Indonesia	N	N
Macau	N	N
Malaysia	N(2)	N
Philippines	Y	N
Singapore	Y(3)	N(4)
Sri Lanka	Y	N
Chinese Taipei	N	Y(5)
Thailand	N(6)	N
Vietnam	Y(7)	N

Notes: Y: Yes N: No

(*) "Composite Insurers" means legal entities which concurrently place both life and non-life business.

(**) "Cross-sectoral investments" means the creation of banking subsidiaries of insurance companies, insurance subsidiaries of banking institutions, etc.

(1) Since November 1992, however, it has been the policy of the Insurance Authority not to give any composite licence to insurance companies, except for professional reinsurers.

(2) Except for reinsurance specialists. Insurers licensed prior to the implementation of the Insurance Act 1996 on 1 January 1997 may continue to conduct both life and non-life business.

(3) However, separate insurance funds must be maintained for life and non-life business.

(4) Local insurers have to seek the authority's approval to
(i) acquire 20% or more of the voting share capital of (or merge with) any company, and
(ii) establish any new operations, including subsidiaries, joint ventures or overseas branches.
Banks are not prohibited from owning insurance subsidiaries.

(5) No business organisation other than an insurance enterprise shall engage concurrently in the insurance business or businesses similar to insurance.

(6) The separation of composite insurers into life and non-life insurers was completed in April 2000 as stipulated in the Insurance Act.

(7) Only one composite insurance company is allowed.

Table 11 **Insurance Accounting Principles**

Country	Adoption of Insurance Accounting Principles	Content of Insurance Accounting Principles
Brunei	N	
Cambodia	Y	
Hong Kong	N	No adoption of specific insurance accounting principles. However, the Insurance Companies Ordinance prescribes the disclosure requirements in respect of financial statements. In addition, for solvency assessment purpose, the Insurance Companies (General Business) (Valuation) Regulation provides a standard and prudent basis for the determination of the value of assets and the amount of liabilities of a non-life insurer.
India	Y	The accounting principles contained in the regulations issued by the authority conform to a large extent to the International Accounting Standards (IAS) modified by the Generally Accepted Accounting Principles (GAAP).
Indonesia	Y	For the taxation purpose, the Generally Accepted Accounting Principles (GAAP) is applied. For the solvency margin analysis purpose, the Statutory Accounting Principle (SAP) is applied. The SAP distinguishes admitted assets and non-admitted assets.
Macau	Y	The accounting principles to be adopted by insurers include the following principles and general concepts: a) continuity of activity convention b) consistency c) realization concept d) historical cost concept e) conservatism
Malaysia	Y	The accounting standards for insurance business are specified in the Malaysian Accounting Standards 3 & 4 (MAS 3 & 4) that have been formulated by the accounting bodies together with the Bank Negara Malaysia (BNM). The MAS 3 deals with general insurance, while the MAS 4 deals with life insurance. The accounting standards cover investments, premiums, acquisition costs, claims and reinsurance to ensure consistency in the presentation of financial statements. Recently they have been revised to enhance transparency and disclosure in the financial statements of insurers. The new accounting standards developed by the Malaysian Accounting Standards Board, an independent authority to develop and issue accounting and financial reporting standards in Malaysia were issued in January 2001 and will be applied for financial statements starting on and after 1 July 2001.
Philippines	Y	The Statutory Accepted Accounting Principles (SAAP) are applied, complemented by the Generally Accepted Accounting Principles (GAAP).
Singapore	Y	Specific insurance accounting principles are laid out in the Insurance Regulations, particularly with regard to the valuation of assets. In areas where the Insurance Regulations are silent, insurers would follow Generally Accepted Accounting Principles (GAAP).
Sri Lanka	N	
Chinese Taipei	Y	The "Accounting Principles of Life Insurance Enterprises" and the "Accounting Principles of Non-life Insurance Enterprises" have been approved by the Ministry of Finance. In respect of the valuation of assets, the Criteria and Appraisal Standards for Admitted Assets are applied for the solvency margin analysis purpose.
Thailand	Y	The insurance companies adopt accounting principles based on the international standards. There is a body responsible for the supervision of the profession of accountants (Board of Supervision of Auditing Practices).
Vietnam	Y	Accrued principles are applied.

Notes: Y: Yes N: No

Table 12 **Reporting and On-site Inspection**

Country	Periodicity of Reporting	Periodicity of On-site Inspection
Brunei	Annual return, complemented by quarterly return	On-site Inspection is not conducted.
Cambodia	-	N The supervisory authority intends to conduct on-site inspection.
Hong Kong	Annual return, complemented by quarterly return	At least once every three years.
India	Annual return, complemented by quarterly return	N So far the authority has not conducted any on-site inspection, although it has the power to do so.
Indonesia	Annual return, complemented by quarterly return	Normally once every three years, and in special cases whenever it is necessary.
Macau	Annual return, complemented by quarterly return	On-site Inspection is carried out, depending on the seriousness of the situation.
Malaysia	Annual return, complemented by quarterly return	Once every one to three years, depending on financial condition of the insurer. (1)
Philippines	Annual return, complemented by quarterly return	At least once a year, and whenever it is necessary.
Singapore	Annual return, complemented by quarterly return	(2)
Sri Lanka	Annual return, complemented by quarterly return	On-site inspection is not conducted.
Chinese Taipei	Annual return, complemented by monthly return	Once a year for screened companies and perform target examinations whenever necessary.
Thailand	Annual return, complemented by monthly return (Insurance Commissioner also has the power to order an insurer to submit additional documents periodically or from time to time).	Y The frequency of on-site inspection depends in particular on the seriousness of the situation.
Vietnam	Annual return, complemented by quarterly return	From time to time.

Notes: Y: Yes

(1) The periodicity of on-site inspections is also determined based on the risk-based approach to examination which was adopted by the Bank Negara Malaysia in 1997. This approach emphasises dynamic off-site financial surveillance in order to focus on-site examinations on areas that expose insurers to the greatest degree of risk and in this way, facilitate the early detection of problems faced by insurers.

(2) The supervisory authority has adopted a new approach to supervise insurance companies. Known as the Risk-Based Supervision Approach (RBA), this method integrates on-site and off-site inspections into one seamless approach. The scope of inspection still includes agency, underwriting, reinsurance, claims, accounts, internal controls and management of daily operations, but resources are allocated towards the specific areas commensurate with the level of risks associated with these particular areas. The frequency of inspections for the higher-risk areas would also be greater.

Table 13 **Solvency Requirements and Technical Provisions**

Country	Adoption of Solvency Requirements	Adoption of Principles or Guidelines Related to Technical Provisions
Brunei	Y 20% of net premium income of the preceding year	N
Cambodia	N The supervisory authority intends to adopt such requirements.	-
Hong Kong	Y For life business, solvency margin is determined based on mathematical reserves and capital at risk. The minimum amount is stipulated. For non-life business, solvency margin is determined based on premium income or claims outstanding. The minimum amount is stipulated, depending on the types of insurers.	Y (life). The Insurance Companies (Determination of Long Term Liabilities) Regulation codifies sound actuarial principles for the determination of the amount of long-term business liabilities and requires adoption of prudent provisions and assumptions particularly on the rate of interest. N (non-life). There are no specific regulations prescribing principles and/or guidelines concerning the setting up and/or calculation of technical provisions for general insurance companies. However, they are required to provide adequate reserves for unearned premiums and outstanding claims including IBNR. The supervisory authority has recently issued a Guidance Note on Reserving for Mortgage Guarantee Business which requires, among other things, the setting up and maintenance for 7 years of a contingency reserve for mortgage insurance business of not less than 50% of the retained premium earned in each year.
India	Y For life business, solvency margin is determined based on mathematical reserves and sum at risk. The minimum amount is stipulated. For non-life business, solvency margin is determined based on premium income or claims outstanding. The minimum amount is stipulated.	Y For life business, mathematical reserves. For non-life business, unearned premium reserves and outstanding claims reserves including IBNR. Unearned premium reserves should correspond to 50% of premium income, except for marine hull, for which 100% of premium income is required.
Indonesia	Y Premium basis is currently applied. The Risk-Based Capital (RBC) will be applied in the near future	Y For life business, net level premium method is applied. For non-life business, unearned premium reserve is calculated based on daily basis method.
Macau	Y For life business, solvency margin is determined based on mathematical reserves or capital at risk. For non-life business, solvency margin is determined based on premium income. The minimum amount is stipulated. Where an insurer registers an abnormal loss ratio during the preceding three consecutive years or during any three years of the preceding five years, the solvency margin shall be doubled.	Y There are principles and guidelines related to claims reserves, mathematical reserves (life insurance), unearned premium reserves (non-life insurance) and loss ratio variation reserves (credit insurance).
Malaysia	Y For life business, solvency margin is determined based on actuarial valuation liability, sums at risk etc. The minimum amount is stipulated. For non-life business, solvency margin is determined based on premium income and incurred claims. The minimum amount is stipulated.	Y The Insurance Regulations prescribe the manner in which an insurer shall value its life and non-life business liabilities. In addition to reserves for unexpired risks, this also includes the manner in which reserves should be established for insurance claims. The Bank Negara Malaysia has also issued guidelines to the industry on the estimation of IBNR claims reserves for non-life insurance business.
Philippines	Y For life business, solvency margin is determined based on the total insurance amount of all policies in force (2 Peso per thousand). The minimum amount is stipulated. For non-life business, solvency margin is determined based on premium (10% of net premium). The minimum amount is stipulated.	Y For non-life, unearned premium reserve is calculated based on 40% method.

Table 13 **Solvency Requirements and Technical Provisions (continued)**

Singapore	Y Insurers are required to establish and maintain a separate fund (i) for each class of insurance business carried on by the insurer that relates to Singapore policies, i.e. the Singapore Insurance Fund (SIF), and (ii) for each class of insurance business carried on by the insurer that relates to offshore policies, i.e. the Offshore Insurance Fund (OIF). Insurers are required to maintain a Solvency Margin for each insurance fund as well as the Company Solvency Margin. For life business, SIF solvency margin is determined based on liabilities and sum insured at risk. OIF has to maintain assets not less than the liabilities of the Fund. For non-life business, SIF solvency margin and OIF solvency margin are determined based on net premiums or loss reserves. The minimum amount is stipulated. The company solvency margin is stipulated as a fixed amount, which is determined by types of insurer (life or non-life only, composite, captive).	Y For life business, the Insurance Act and Regulations set out the statutory minimum valuation basis for computing the actuarial reserves. For non-life business, the calculation of reserves for unexpired risks is generally based on a basis that is not less accurate than the 1/24 method. As for loss reserves, it should be estimated using a proper and consistent method based on properly collated claims statistic. In line with the need for conservatism, discounting of loss reserves is not allowed for statutory returns submitted under the Insurance Act.
Sri Lanka	Y Minimum solvency margin should be maintained and the net assets should be at least over 10% of the net premium income of the previous year (almost all existing companies presently maintain well above this margin and this limit may be increased to 30% shortly).	Y For non-life business, unearned premium reserve is calculated using 1/24 method.
Chinese Taipei	Y The balance of admitted assets minus liabilities shall meet the amount that is equal to three times the deposit amount, that is, an amount equal to 45% of the total amount of its paid-in capital or paid-in fund.	Y The Insurance Law and Regulations set out the statutory minimum valuation basis for computing actuarial reserves.
Thailand	Y For life business, not less than 2% of reserve fund. The minimum amount is stipulated. For non-life business, not less than 10% of net premium received for the previous year. The minimum amount is stipulated.	Y For life business, report on valuation of mathematical reserve made by an actuary must be submitted to the Insurance Commissioner. For non-life business, reserve for unexpired risks is calculated, in principle, based on 1/24 method.
Vietnam	Y	Y For life business, mathematical provision is stipulated. For non-life business, unearned premium provision, outstanding claim provision and equalisation provision are stipulated.

Notes: Y: Yes N: No

Table 14 **Investment Regulation**

Country	Existence of Legislation Concerning Evaluation Method of Investments	Existence and Content of Investment Regulation	Admissibility of Portfolio Investment Abroad
Brunei	N	N	n.a.
Cambodia	N	N	n.a.
Hong Kong	(1)	The Insurance Companies (General Business)(Valuation) Regulation sets out upper admissibility limits, as certain percentages of total eligible asset, on different types of investments. Any excess in value in this respect will be disregarded for solvency assessment purposes. Non-life insurers, excluding captive insurers and professional reinsurers, are required to maintain assets in Hong Kong in an amount that is not less than the aggregate of 80% of its liabilities arising from Hong Kong insurance business and the solvency margin applicable to its Hong Kong insurance business. Life insurers are required, in determining the amount of long-term business liabilities, to take into account the nature and term of the assets representing those liabilities, which include currency matching and rates of interest.	Y (no restrictions as long as insurers comply with the localisation requirements)
India	Y (market valuation)	Y The regulations stipulate a list of approved investments and minimum and maximum percentages of total assets on categories of investments. Life insurers have to invest at least 50% of total assets in government securities and other approved securities and at least 15% of total assets in infrastructure and social sector. Likewise, non-life insurers have to invest at least 35% of total assets in government securities and other approved securities and at least 10% of total assets in infrastructure and social sector.	N
Indonesia	Y (market valuation)	Certain percentages are imposed on the fund which shall be invested in stocks, bonds, other commercial papers, mortgage loan, direct placement, time deposit.	N (except placement in insurance companies)
Macau	Y (historical cost)	No restriction on investments by insurers, except that in case of insurance fund assets the authority lays down the maximum limit for each category of admitted assets. Such assets have to be pledged to the authority.	Y (no restriction except for insurance fund assets)
Malaysia	Y (in principle, the lower of cost or market value).	The Insurance Act 1996 contains provisions prohibiting insurers for granting unsecured credit facilities, entering into transactions where a material gain can accrue to its directors etc. In addition, the Bank Negara Malaysia has specified the types of assets and their limits which are admissible for supporting the margin of solvency and liabilities of an insurer.	Y(2)
Philippines	Y (for shares, the lower of cost or market value)	The Insurance Code stipulates non-admissible investments.	Y(3)

Table 14 **Investment Regulation (continued)**

Singapore	Y (in general, the lower of cost or market value)	There are investment requirements for the Singapore Insurance Fund (SIF). The regulations set maximum limits on respective categories of investment. Insurers may invest beyond the prescribed limits, but assets in excess of the maximum limits will be non-admitted for the purposes of determining fund margin of solvency. There are no specific investment requirements for offshore business. Insurers are expected to exercise prudence in their investments.	Y(4)
Sri Lanka	N (but to be introduced soon)	In the case of life business, 50% of the reserves including share capital should be invested in government securities and the balance in approved investments which are detailed in the Control of Insurance Act. In the case of non-life business, 30% of the reserves including share capital should be invested in government securities and the balance in approved investments. (The limits for investments in government securities will be reduced to 30% and 20% respectively, with the enactment of proposed amendments).	N(5)
Chinese Taipei	Y (in principle, "historic valuation" for bonds, and "the lower cost or market value" for shares)	The regulations set maximum percentages on respective categories of admissible investment.	Y (up to 20% of the total equity and reserves)
Thailand	Y (in general, market value)	Maximum percentages or conditions for certain categories of admissible investment.	N(6)
Vietnam	N	25% of maximum percentage is imposed on some categories of admissible investments.	N

Notes: Y: Yes N: No

(1) For the solvency assessment purpose, however the Insurance Companies (General Business)(Valuation) Regulation provides a standard and prudent basis for the valuation of assets of non-life insurers, other than captive insurers.

(2) Insurers are allowed to invest up to 5% of the margin of solvency and liabilities ("the Amount") in foreign assets in a jurisdiction whose sovereign rating is not lower than that of Malaysia. Investment in any one foreign jurisdiction is also restricted to up to 2% of "the Amount". These restrictions apply only to the Malaysian insurance fund. With respect to the insurance fund maintained for foreign insurance policies, insurers are allowed to hold investments in a foreign jurisdiction to met their liabilities in that jurisdiction.

(3) Foreign currency denominated investments are widely allowed without any proportional ceiling. They are subject to certain conditions such as a credit rating of BB+ or better for foreign governments' issues, a credit rating of at least BBB for foreign corporations' issues etc.

(4) The admitted value of investment in foreign-currency denominated and overseas assets is limited to 30% of the Singapore Insurance Fund (SIF) assets. In addition, investments up to 10% of the SIF assets in synthetic Singapore dollar assets are also permitted. Foreign-currency denominated fixed income assets that are fully hedged to the Singapore dollar can be deemed as synthetic Singapore dollar assets, subject to the certain conditions.

(5) At present approval will be granted only for investments abroad in sectors related to insurance.

(6) An insurer may invest abroad by purchasing the shares or debentures, up to 5% of the asset of the company, issued by a legal entity established under the Agreement of the Association of South East Asian Nations (ASEAN) or the Economic and Social Committee for Asia and Pacific (ESCAP) to undertake reinsurance business only.

Table 15 **Reinsurance**

Country	Regulation or Supervision on Reinsurance Specialists	Regulation or Supervision on Reinsurance Arrangements	Domestic Retention Requirements	Cross-border Reinsurance Transactions
Brunei	Y(1)	N	N	Y
Cambodia	-	-	-	Y
Hong Kong	Y(2)	Y(3)	N	Y
India	Y(4)	Y	Y(5)	Y(6)
Indonesia	Y(7)	-	-(8)	Y
Macau	Y(4)	Y(9)	N	Y
Malaysia	Y(10)	Y(11)	Y(12)	Y(6)
Philippines	Y(7)	Y(13)	Y(14)	Y(15)
Singapore	Y(16)	Y(17)	N(18)	Y
Sri Lanka	N(19)	Y(20)	Y(21)	Y
Chinese Taipei	Y(22)	-	Y(23)	Y(23)
Thailand	Y(7)	-	Y(24)	Y
Vietnam	Y(7)	-	Y(25)	Y

Notes: Y: Yes N: No -: not available

(1) In the absence of an Insurance Act, any application to undertake reinsurance business should be forwarded to the Ministry of Finance for approval.

(2) There are no specific differences in the modalities of regulation of professional reinsurers, except that professional reinsurers are not subject to the local asset requirement.

(3) Direct insurers are required to submit to the supervisory authority information on their material reinsurance arrangements.

(4) Basically, reinsurance companies are subject to the same regulation and supervision as direct insurers, only that the requirements in relation to capital, establishment fund and margin of solvency are higher.

(5) For non-life, the percentage of compulsory cession to a national reinsurer could be up to 30%. The current operative ratio is 20%.

(6) After utilising the reinsurance capacity available locally.

(7) Reinsurance specialists are in principle subject to the same regulation and supervision as direct insurers.

(8) Ceding companies have to retain not less than 30% of gross premiums earned.

(9) Details of reinsurance arrangements form part of the licensing requirements. Once established, supervision of reinsurance arrangements is carried out on the basis of annual returns submitted to the Insurance Authority and through on-site inspections.

(10) Professional reinsurers licensed to operate in Malaysia are subject to the same regulation and supervision as direct insurers except in terms of minimum capitalisation requirement and reserving for unexpired risks for Malaysian policies. Malaysian branches of foreign reinsurance specialists are required to maintain a lower amount of minimum solvency margin.

(11) The Insurance Act 1996 requires reinsurance arrangements to be in accordance with sound insurance principles, failing which BNM (The Bank Negara Malaysia) is empowered to take the necessary actions, including imposing penalties. Monitoring of the reinsurance arrangement of insurers is done via on-site inspection as well as from returns submitted to BNM in a specified format. Insurers found to have unhealthy reinsurance arrangements and practices would be requested to review the arrangements to ensure that they are consistent with national aspirations and sound insurance principles.

(12) Various measures have been put in place to optimise the country's national retention such as
- (i) the voluntary cessions arrangement between insurers and the Malaysian National Reinsurance Berhad (MNRB), the national reinsurer,
- (ii) licensing of new foreign professional reinsurers,

(iii) the implementation of the Scheme for Insurance of Large and Specialised Risks to optimise utilisation of local capacity for large and specialised risks, and
(iv) general encouragement to utilise local reinsurance capacity before ceding abroad.

(13) Every insurance company shall report to the Commission on forms prescribed by it, the particulars of any new treaty or changes in existing treaties together with copy of the treaty itself.

(14) Non-life insurers shall cede to the National Reinsurance Corporation of the Philippines at least 10% of their outward reinsurance with unauthorized foreign reinsurers.

(15) But only through a resident agent duly registered with the Commissioner. The "resident agent" means one duly appointed by a foreign insurer or broker not authorised to do business in the Philippines to receive in its behalf notices, summons and legal processes in connection with actions or other legal proceedings against such a foreign insurer or broker.

(16) Reinsurers are regulated in the same way as direct insurers, except that less stringent local requirements and lower solvency margin are imposed on reinsurers.

(17) Except for financial reinsurance for life business, direct insurers are not required to submit reinsurance arrangements to the authority for approval. However, the supervisory authority does specify as one of the conditions in the letter of in-principles approval for applicants that insurers should maintain suitable and adequate retrocession arrangements, and they are required to inform the authority immediately if any of the arrangements has or is likely to be rendered inadequate or ineffective.

(18) There is no domestic retention requirement. However, during the licensing procedure, insurers are encouraged to retain as much as is practicable in Singapore. The non-life insurance market on its own has entered into a reinsurance agreement to cede a certain percentage of their domestic business to the Singapore Reinsurance Corporation, a publicly-listed local reinsurer.

(19) There are currently no reinsurance specialists operating in Sri Lanka and therefore there are no regulations to supervise them.

(20) Copies of agreement should be submitted. All the remittances require the prior approval of the insurance supervisory authority.

(21) 15% of gross premiums written of fire and marine insurance should be ceded to the National Insurance Corporation Ltd., which is fully State-owned.

(22) The Central Reinsurance Corporation Act is exclusively for the Central Reinsurance Corporation, which is State-owned and the sole professional reinsurance company.

(23) The Central Reinsurance Corporation shall have the priority to accept reinsurance from domestic ceding companies.

(24) (Statutory Local Retention Requirements) The compulsory local retention for Fire is Bht 20 000 000 per Policy. Compulsory local retention for Marine Cargo is Bht 2 000 000 per Policy.
(Voluntary Market Agreement) There are several kinds of market agreements including voluntary cession to the Thailand Reinsurance Co., Ltd.

(25) Insurance companies shall cede certain share of risks of direct insurance contract to the National Reinsurance Company.

Table 16 **Supervision on Policy Conditions and Premium Rates**

Country	Existence of Supervision (*)		Classes of Insurance Supervised	Comments
	Policy Conditions	Premium Rates		
Brunei	N	N	-	-
Cambodia	N	N	-	-
Hong Kong	N	N	All classes.	The Insurance Authority is prohibited from intervening in policy wordings and premium rates. However, for certain classes of insurance, the Hong Kong Federation of Insurers, a representative body of insurers in Hong Kong, provides its members with reference premium rates, but leaves its members to determine their own premium rates.
India	Y	Y	All classes. Fire, marine hull, engineering, motor, workmen's compensation are tariff lines.	The non-life market is essentially a tariff market. The Tariff Advisory Committee (TAC), which is a statutory body, determines policy conditions and premium rates. If there is a breach of any of these, insurers are liable to penalty.
Indonesia	N	N		
Macau	Y	Y	Compulsory classes of insurance (motor insurance (third party), employees' compensation insurance, professional liability insurance for travel agents, and public liability insurance for neon signs)	
Malaysia	Y	Y	Motor insurance and fire insurance. Life insurance	Approval system for tariffed classes of insurance (motor and fire). Tariffs set the standard minimum rates. File and use
Philippines	Y	Y		All policy conditions are subject to the prior approval (for both life and non-life). Premium rates for life products are subject to prior approval. As for premium rates for non-life products, only motor and bonds are tariff lines. Premium rates for fire were liberalized in May 2000.
Singapore	Y (Life) N (Non-Life)	Y (Life) N (Non-Life)	Life insurance only	In the case of life, the policy conditions and premium rates of non-investment linked policies are subject to "file and use", whereas the policy conditions and premium rates of investment linked policies are subject to prior approval. In the case of non-life, insurers are only required to consult the authority for introducing policies insuring risks that are new in the non-life insurance market of this country.
Sri Lanka	Y	Y		Policy conditions of life and non-life products should be filed with Controller of Insurance. Premium rates for fire, motor and employees liability are fixed by the Controller of Insurance.
Chinese Taipei	Y	Y	All classes, except for those which are international in nature and related to special circumstances.	Approval system. Motor insurance, fire insurance and fishing vessel insurance use tariff rates. Products of life insurance and accident insurance are subject to "file and use".
Thailand	Y	Y		Approval system
Vietnam	Y	Y	Compulsory classes of insurance (motor third party liability insurance and Contractor's All Risks (CAR) insurance for government funded projects) and insurance of person.	

Notes: Y: Yes N: No

(*) In this table, the "existence of supervision" means whether new products are subject to supervision in respect of their policy conditions and/or premium rates when they are launched.

Table 17 **Claims Data Collection on a Broader Basis**

Country	Existence of Collecting Body[1]	Collecting Body	Classes of Insurance
Brunei	Y	Data-Sub-Committee of the General Insurance Association of Brunei Darussalam	
Cambodia	N		
Hong Kong	-[2]		
India	Y	Tariff Advisory Committee (TAC)	non-life insurance
Indonesia	Y	Association of Insurance Industry in Indonesia	motor insurance, fire insurance
Macau	Y[3]	Insurance Authority	all classes, and in greater detail for compulsory classes of insurance
Malaysia	Y	General Insurance Association of Malaysia	motor insurance, fire insurance
Philippines	Y[4]	Insurance Commission Philippine Insurance Rating Association (PIRA)	all classes of insurance non-life insurance
Singapore	Y[5]	Insurance Authority General Insurance Association (GIA)	life insurance non-life insurance
Sri Lanka	N		
Chinese Taipei	Y[6]	Insurance Institute of the Republic of China Life Insurance Association of the Republic of China	
Thailand	N[7]		
Vietnam	N		

Notes: Y: Yes N: No

(1) The "existence of collecting body" means whether claims data, such as loss frequency and loss severity, of individual insurers can be shared through a single body so that adequate premium rates can be calculated on a broader statistical basis.

(2) For motor vehicle insurance and employees' compensation insurance, the Hong Kong Federation of Insurers ("HKFI"), a representative body of insurers in Hong Kong, provides its members the industry average of the respective burning costs (i.e. pure claims costs). The HKFI does not collect any insurance statistics itself from its members. It contracts out the claims study to consultancy firms, e.g. actuarial firms, which collect the data required for analysis.

(3) Information in relation to the amount of gross claims and loss ratios pertaining to the major classes of insurance are indicated on the annual insurance activity report which is prepared by the Statistics Area of the Insurance Supervision Department.

(4) The Insurance Commission monitors the claims data through the annual statements submitted by all insurance companies. These data are collated by the Insurance Commission for all classes of insurance so that the adequacy of premium rates can be monitored. At the same time, the Philippine Insurance Rating Association (PIRA), a licensed rating organisation, sets the policy conditions and premium rates for non-life insurance.

(5) In the case of life insurance, the supervisory authority collates mortality data from the industry on a periodic basis and makes it available to the industry for pricing and reserving purposes. In the case of non-life insurance, the statistics are collated by General Insurance Association (GIA), a trade association for general insurers.

(6) Raw data shall be submitted by insurance companies to organisations assigned by the supervisory authority. The organisations then produce claims data including loss frequency and loss severity. All these data are compiled regularly and can be shared by all insurance companies in pricing their products.

(7) The Department of Insurance collects the overall data of total amount of claims which is one of the factors to consider and approve adequate premium rates.

Table 18 **Actuary**

Country	Obligatory Appointment of Actuary(1)	Minimum Qualification	Statutory Duties of Actuary	Formal Relationship between Actuary and Supervisory Authority
Brunei	N			
Cambodia	N			
Hong Kong	Y (Life)	Any of the following qualifications, or otherwise acceptable to the supervisory authority as the appointed actuary: - Fellow of the Institute of Actuaries of England - Fellow of the Faculty of Actuaries in Scotland - Fellow of the Institute of Actuaries of Australia - Fellow of the Society of Actuaries of USA.	Valuation of the liabilities of life insurers Monitoring the solvency margin(2)	N(3)
India	Y (Life and Non-life)	Fellow of the Actuarial Society of India	Calculating technical reserves Designing and pricing of products A member of the Investment Committee of an insurance company	Y(4)
Indonesia	Y (Life)	Fellow of the Society of Actuaries	Calculating premium rates Designing products Calculating technical reserves Analysing viability of insurers	N
Macau	Y (Life)		Calculating and certifying mathematical reserves Calculating and certifying solvency margin	Y (reporting and consultation)
Malaysia	Y (Life)	The appointed actuary must satisfy the following conditions: (a) must be a fellow of the Institute of Actuaries in England; the Faculty of Actuaries in Scotland; the Society of Actuaries of USA, the Canadian Institute of Actuaries or the Australian Institute of Actuaries. (b) must be a resident in Malaysia. However, the Bank Negara Malaysia may allow for the appointment of a non-resident actuary if it is satisfied that measures are being taken to build up the level of in-house actuarial expertise of the insurer to take over the function in the near future. (c) should have at least one-year relevant experience in a responsible position with Malaysian insurer. Consideration will be given to his/her past experience in valuing liabilities of Malaysian insurers, and familiarity with the Malaysian laws and general economic/financial environment in Malaysia.	Determining premium rates Designing products Valuing policyholder reserves Recommending the distribution of life surplus Monitoring all developments in the insurer which may have an impact on its financial condition and reporting them to the insurer.	Y(5)

Table 18 **Actuary (continued)**

Philippines	Y (Life)	Fellow of the Actuarial Society of the Philippines (If he/she is not a Fellow of the said Society, he/she has to meet all the requirements as a Fellow of the said Society).	Certifying various documents to be submitted to the Commissioner by a life insurer.	Y(6)
Singapore	Y (Life)	Any of the following qualifications: - Fellow of the Institute of Actuaries of England - Fellow of the Faculty of Actuaries in Scotland - Fellow of the Society of Actuaries of USA - Fellow of the Institute of Actuaries of Australia.	Valuing policy liabilities Ensuring the appropriateness of premium rates Ensuring that the distribution of surplus to policyholders is fair and equitable Assisting the insurer in the formulating of suitable investment policy. Assessing the financial soundness of the insurer by conducting a solvency testing of the insurance fund's financial position under various economic conditions Submitting a written report to the Board of Directors of the insurer at least once during each financial year on the current financial position of the life business in Singapore and the future financial condition of the insurer Reporting in writing to the principal officer any matter which has come to his/her attention in the course of carrying out his/her duties, in his/her opinion has any material adverse effect on the financial condition of the insurer in respect to its life business. Where the appointed actuary is of the opinion that the insurer has failed to take appropriate steps to rectify the matter within a reasonable time, the actuary shall send a copy of his/her report to the supervisory authority and notify the bard of directors of the insurer that he/she has done so.	Y(7)

Table 18 **Actuary (continued)**

Sri Lanka	Y (Life)	Any of the following qualifications: - Fellow of the Institute of Actuaries of England - Fellow of the Faculty of Actuaries in Scotland - Associate of the Institute of Actuaries of England with at least 10 years' post-qualification experience. - Associate of the Faculty of Actuaries in Scotland with at least 10 years' post-qualification experience.	Calculating premium rates Calculating technical provisions Certifying that premium rates are beneficial to the policyholders Valuing life business at least once in three years (this will shortly be made annually).	
Chinese Taipei	Y (Life and Non-life)	Five to eight years' working experience in the related field and/or educational background.	Calculating technical provisions Examination of premium rates	
Thailand	Y (Life)	The minimum qualifications are as follow: - at least university degree - 3 years' experience in the field of actuary - at least 20 years of age.	Calculating solvency margin Calculating technical provisions Calculating premium rates	
Vietnam	N			

Notes: Y: Yes N: No

(1) This column indicates whether it is obligatory for an insurer to appoint an actuary.

(2) Legislative amendments have been made for the implementation of a full-fledged appointed actuary system commencing with year 2001, which has extended the role of the appointed actuary to all actuarial aspects of financial management of life business such as premium setting, reinsurance and detection/reporting of irregularities and required him/her to follow the prescribed professional standard or other comparable standards.

(3) There is no formal relationship between actuaries and the Insurance Authority. However, consultation relationship is maintained between the Insurance Authority and the Actuarial Society of Hong Kong, an association of the actuarial profession in Hong Kong, on actuarial matters concerning life insurers and other industry issues.

(4) An appointed actuary acts as the ears and eyes of the supervisory authority in relation to the management of an insurance company. The appointment of an actuary is subject to the approval of the supervisory authority.

(5) The appointment of an actuary is subject to the approval of the Bank Negara Malaysia. The appointed actuary should report in writing to the management of the insurer any event that in his/her opinion has a material adverse impact on the financial position of the company. Any such report to the management should be presented by the appointed actuary to the Board of Directors at the earliest Board of Directors meeting. If no action is taken by the management within a reasonable period of time and the adverse situation persists, the appointed actuary must report to the BNM the facts and notify the directors that he/she has done so.

(6) The Commissioner is directly responsible for the direction and supervision of all actuarial work.

(7) The appointment of the appointed actuary is subject to the approval of the supervisory authority.

Table 19 **Auditor**

Country	Obligatory Appointment Auditor[1]	Minimum Qualification	Statutory Duties of Auditor	Formal Relationship between Auditor and Supervisory Authority
Brunei	Y			
Cambodia	Y			
Hong Kong	Y	Stipulated by the Professional Accountants Ordinance.	Giving opinion on whether the insurer has kept proper books and records, whether the financial statements and statutory financial returns are prepared in accordance with specified provisions, and whether the insurer is able to meet the solvency margin requirement.	N[2]
India	Y	Member of Institute of Chartered Accountants of India	Submitting an audit report after checking compliance of accounting and disclosure requirements.	N
Indonesia	Y	Qualification of CPA	Checking annual account Making statement on financial reports.	N
Macau	Y	Auditing firms registered with the Finance Department	Checking the process and content of financial accounts. Checking whether the insurer complied with provisions related to assets guaranteeing technical reserves	Y (reporting and consultation)
Malaysia	Y	-	Submitting an audit report Reporting to the Bank Negara Malaysia immediately when he/she finds contravention of provisions of the Insurance Act 1996, offence involving fraud or dishonesty committed by the insurer or its employees, or any irregularity which jeopardises the interest of policyholders and creditors of the insurer, or when he/she finds that the available assets of the insurer are just adequate or less than adequate to meet its margin of solvency.	Y[3]
Philippines	Y	Certified public accountant	Checking the general auditing principles of the insurer	N

Table 19 **Auditor (continued)**

Singapore	Y	-	Audit of the annual accounts Reporting to the Authority any serious breach or non-observance of the regulatory provisions, any criminal offence involving fraud or dishonesty, any transaction or dispute that will have a material effect on the fund solvency margin, serious irregularities that jeopardise policyholders' interests, or when the insurer is unable to meet its obligations.	Y(4)
Sri Lanka	Y	A member of the Institute of Chartered Accountants of Sri Lanka.	Auditing the accounts Examining the balance sheet and profit and less account Certifying these documents	-
Chinese Taipei	Y		Auditing financial reports, statements, admitted assets, and the reserves of compulsory automobile liability insurance	Y(5)
Thailand	Y	Registration at the Board of Supervision of Auditing Practices.	Certifying annual accounts Giving an opinion statement under the annual accounts Auditing financial returns Approving financial returns	N
Vietnam	N			

Notes: Y: Yes N: No (-) : not available

(1) This column indicates whether it is obligatory for an insurer to appoint an auditor.

(2) There is no formal relationship between auditors and the Insurance Authority. However, consultation relationship is maintained between the Insurance Authority and the Hong Kong Society of Accountants, a body of accountancy professions, on accounting and reporting issues in relation to insurance companies.

(3) An auditor is subject to the approval by the Bank Negara Malaysia (BNM). The BNM has the power to appoint an auditor if the insurer fails to appoint an auditor within the specified time. The BNM has also the power to appoint another auditor to act with the auditor appointed if the BNM considers it is desirable to do so.

(4) The auditor has to be approved by the Authority. The Authority may impose all or any of the following duties on an auditor:
i. a duty to submit such additional information in relation to his/her audit as the Authority considers necessary;
ii. a duty to enlarge or extend the scope of his/her audit of the business and affairs of the insurer;
iii. a duty to carry out any other examination or establish any procedure in any particular case; and
iv. a duty to submit a report on any of the matters referred to in paragraphs (ii) and (iii) above.

(5) An auditor must be approved by the Ministry of Finance.

Table 20 **Insurance Companies in Financial Difficulties**

Country	Reference to Solvency Margin	Feasibility of Portfolio Transfer
Brunei	N	N
Cambodia	N	-
Hong Kong	Y(1)	Y(2)
India	Y	Y
Indonesia	Y(3)	Y
Macau	Y(4)	Y(5)
Malaysia	Y(6)	Y
Philippines	Y(7)	-(8)
Singapore	Y(9)	Y(10)
Sri Lanka	Y(11)	N
Chinese Taipei	Y(12)	N
Thailand	Y	Y
Vietnam	n.a.(13)	N

Notes: Y: Yes N: No

(1) There are no specific guidelines which indicate what kind of measures can (or should) be taken in what circumstances. However, the supervisory authority will assess the severity of the situation and financial position of the insurer concerned. If a solvency indicator falls outside the usual norm, precautionary actions may be taken against the insurer to ensure that policyholders' interests are adequately protected.
If an insurer is not able to fulfil the solvency requirement, the supervisory authority would take appropriate actions against the insurer in order to protect the interests of policyholders and potential policyholders. The following are examples of actions that can be taken by the supervisory authority:
- to require a plan for restoration of a sound financial situation;
- to require injection of capital;
- to prohibit free disposal of assets;
- to prohibit certain investments;
- to require custody of assets by the supervisory authority or approved trustees;
- to restrict acceptance of new business or renewal of existing business;
- to limit the amount of premium income;
- to require actuarial investigation;
- to conduct on-site examination of books of account and records; and
- to appoint a special manager or advisor to take over control/management or give directions on the affairs of the insurer.

(2) Court sanction is required in the case of portfolio transfer of life insurance and approval by the Insurance Authority may be needed in the case of portfolio transfer of general insurance.

(3) If the financial analysis detects an insurer's difficulties, the supervisory authority sends the final warning. The warning will be sent up to three times if the insurer cannot solve the problem. Then business restriction will be imposed.

(4) When the solvency margin is verified to be insufficient, be it circumstantial or temporary, the insurer in question is required to submit to the Authority for approval, within the period laid down for such purpose, a short-term recovery plan to restore equilibrium to its financial conditions. If the recovery plan is considered inadequate, the Authority may effect necessary modifications which shall be adopted by the insurer.

(5) Until now, no bankruptcies in Macau. In case of portfolio transfer (due to cessation of business or liquidation), the authority is competent to intervene in the process. In any case, prior authorisation of the Authority is required for any such transfers.

(6) Solvency compliance is an important criterion in assessing financial condition of an insurer. However, financial ratios and industry benchmark are important tools in developing an early warning indicator on potential problematic insurers.

(7) The Insurance Commission conducts a yearly table audit of all insurance companies and if deemed necessary an on-site examination to determine the financial condition and methods of doing business of all insurance companies to ensure their solvency for the interest of policyholders.

(8) Portfolio transfer may be feasible but has never been done.

(9) The Authority has an "early warning system" to identify insurers in difficulties at an early stage so that immediate remedial action can be taken. In general, besides the solvency requirements which provide a layer of protection to policyholders' interest, the Authority also has the power to direct insurers to take any remedial action to protect policyholders' interest. The exact measures to be taken will depend on the circumstances of each case. The Authority may require the insurer.

    i. to take such action or recruit such management personnel as may be necessary to enable it to conduct its business in accordance with sound insurance principles;
    ii. to remove any of its director or any person whom the Authority considers unfit;
    iii. to take action as to the disposition or recovery of its assets;
    iv. to take any steps for the recovery by the insurer of sums to have been illegally or improperly paid;
    v. to stop renewing or issuing policies of the class of business to which the direction relates;
    vi. to make such arrangements with respect to reinsurance as the Authority specifies;
    vii. to take action to make good any default relating to register of policies, establishment of insurance funds and allocation of surplus margins of solvency, investments and assets.

    The Authority may even cancel the registration of the insurer and require that certain portion of its assets be maintained in Singapore or be held by a person approved by the Authority as a trustee for the insurer.

    The Authority may also require the raising of additional capital and may admit reputable foreign insurers to inject capital into the insurer in financial difficulties.

(10) The Authority may also require the sale/transfer of business to a stronger company to protect policyholders' interest. Such transfers are effected by a transfer scheme approved by the High Court.

(11) The Controller of Insurance may appoint an administrator.

(12) When the balance of admitted assets minus liabilities of an insurer fails to meet the amount that is equal to three times of the deposit amount, the Ministry of Finance shall order such an insurer to make up the difference in cash within a designated period of time. If an insurer has not increased its capital to make up the deficiency, the Ministry of Finance shall take the following disciplinary actions based on the circumstances:

    i. to dispatch an officer to supervise the insurer;
    ii. to remove and replace the responsible person or other concerned persons;
    iii. to order the insurer to reorganize within a specified period of time;
    iv. to order the insurer to cease doing business or to dissolve.

(13) If the financial position of an insurer may become insolvent, the Ministry of Finance may require it to restore and carry out measures to improve the situation.

Table 21 **Policyholders' Protection Fund**

Country	Existence	Classes of Insurance Covered	Scope of Coverage	Remarks
Brunei	Y	Motor Third Party Liability Insurance	up to 1 million Brunei dollars	In the case of motor third party liability insurance, statutory deposit of 1 million Brunei Dollars in the form of "bank guarantee" is required.
Cambodia	N			
Hong Kong	Y	Motor Third Party Liability Insurance Employees' Compensation Insurance	n.a.	Motor Insurers' Bureau of Hong Kong (MIB) is set up to ensure that the legitimate claims of victims of traffic accidents are met. The MIB administers two funds, namely the First Fund and the Insolvency Fund. The First Fund is applied to cases where the victim is unable to obtain compensation because the vehicle is uninsured or untraceable; the Insolvency Fund is to meet claims which remain unsettled due to the insolvency of the insurer concerned. The Employees Compensation Assistance Fund is established to indemnify injured employees who are unable to obtain compensation from the employers because the employers are uninsured or untraceable, or the insurer concerned has become insolvent. It also reimburses insured employers who have paid compensation for which they are liable but unable to obtain recovery due to the insolvency of the insurer concerned. These funds are financed by levies charged on motor policy premiums and on premiums payable in respect of employees' compensation insurance policies.
India	Y			Statutory deposit can function as a policyholders' protection fund.
Indonesia	Y	n.a.	partial	There exists statutory deposit of the amount of 20% of minimum required paid up capital. The amount will be increased with certain percentages of the increased business volume every year. Such a deposit shall be used for partial compensation only, when such a company has been under the process of liquidation.
Macau	Y	Motor Third Party Liability Insurance Third Party Liability Insurance for Pleasure Vessels	determined by the minimum sums for compulsory motor and pleasure vessel insurance	The scope of coverage of the Motor and Marine Guarantee Fund, which is a guarantee fund for compulsory motor third party liability insurance and third party liability insurance for pleasure vessels, is limited to death and bodily injury only, whereas the respective compulsory third party liability insurance for motor vehicles and pleasure vessels covers property damage in addition to death and bodily injury.
Malaysia	Y	All classes of insurance	up to 90% of the admitted claim amount	The Bank Negara Malaysia established a separate insurance guarantee scheme fund (IGSF) for general insurance business and life insurance business on 15 July 1977 and 23 January 1998 respectively.

Table 21 **Policyholders' Protection Fund (continued)**

Philippines	Y	All classes of insurance	full compensation or if not possible up to whatever can be covered by the fund	The Insurance Commission administers the "Security Fund". The "Security Fund" may be used to pay claims also in the case of national emergency or calamity, because these claims otherwise would not be compensated under policy conditions. Contribution made by life companies should be managed separately from that made by non-life companies and should be called respectively Life Account and Non-life Account. No payment from the Security Fund should be made to any person who owns or controls 10% or more of the voting shares of the insolvent insurer.
Singapore	Y	Life insurance, compulsory classes of insurance (motor third party liability insurance and workmen's compensation insurance).	90% for life insurance, 100% for compulsory classes of insurance	The Monetary Authority of Singapore (MAS) has the power to impose a levy on insurers to establish the Policy Owners' Protection Fund (PPF).
Sri Lanka	N	-	-	In the new Act, which is expected to come into effect in the first quarter of 2001, there is provision to establish a policyholders protection fund. The fund could be created once the new Act is in operation. The fund would cover both life and non-life insurance business. Each registered insurer will be required to pay an amount at a rate which would be based on the annual net premium income of insurers (both life and non-life), ands this rate will not exceed one half percent of such annual net premium income.
Chinese Taipei	Y	All classes of insurance	full compensation	Life insurers and non-life insurers separately contribute funds to set up a "stabilisation fund"
Thailand	N	-	-	
Vietnam	N			

Notes: Y: Yes N: No

(*) "Policyholders' Protection Fund" is here defined as funds/systems which will be triggered when an insurance company has either fallen into a critical condition which may result in its inability to pay the claims already filed or those to be made later, or has actually gone into liquidation.

The system can either pay claims directly (or through a separate company or organisation) to the policyholders based on the fund collected from insurance companies or from the government; or it can inject necessary money (again collected from insurance companies or government) into the failing company or into a separate insurance company who has agreed to take over the portfolio of the failing company.

There should always exist collection (either on a regular basis or on the spot basis) of fund from insurance companies (or even directly from policyholders) or from the government.

Table 22 **Liquidation Procedure of Bankrupt Insurance Companies**

Country	Preferential Status of Policyholders	Remarks
Brunei	N	For motor insurance, however, there exist statutory deposits of 1 million Brunei Dollars.
Cambodia	-	
Hong Kong	Y	Non-life insurers, other than professional reinsurers and captive insurers, are required to maintain certain amount of assets in Hong Kong in order to ensure that, in the event of insolvency of an insurer, assets will be available in Hong Kong to meet the claims of Hong Kong policyholders. Besides, insurance claimants are accorded preferential status in priority to ordinary creditors.
India	-	Insurance Act stipulates the procedure.
Indonesia	Y	The status of policyholders is equal to priority creditors.
Macau	Y	The credits arising from insurance contracts enjoy credit privilege over movable or immovable assets pertaining to the technical reserves and shall be graded in the first position.
Malaysia	Y	Claims of policyholders and claimants are preferred over unsecured liabilities (other than preferential debts specified under the Companies Act 1965) in a liquidation procedure.
Philippines	-	The Insurance Commission appoints a conservator, receiver and/or liquidator.
Singapore	Y	Policyholders have priority of claims over all unsecured liabilities of the insurer other than certain preferential debts specified in the Companies Act such as corporate taxes and wages of employees.
Sri Lanka	-	The new Act, which is expected to be in operation in the first quarter of 2001, stipulates that policyholders have a prior claim in the event of liquidation.
Chinese Taipei	Y	According to the Insurance Law, the applicant, the insured, and the beneficiary of insruance are entitled to priority of payment of the policy reserve set aside by the insurer for the insured. The relevant provisions of the Company Law or the Co-operative Law shall apply mutatis mutandis.
Thailand	N	The Department of Insurance will work closely with the insurance association and some insurance companies with strong financial position to arrange portfolio transfers.
Vietnam	N	There is no legislation on measures which can be applied to protect policyholders' interests in the liquidation procedure of bankrupt insurers.

Notes: Y: Yes N: No (-) : not available

Table 23 **Cases of Insurance Companies in Financial Difficulties for 1997 –1999**

Country	Number of examples
Brunei	None
Cambodia	None
Hong Kong	One liquidation related to a branch of a foreign non-life insurer(1)
India	None
Indonesia	None
Macau	None
Malaysia	One case related to a non-life insurer(2)
Philippines	Two cases(3)
Singapore	A few cases related to life insurers(4)
Sri Lanka	None
Chinese Taipei	None
Thailand	One case related to non-life insurer(5)
Vietnam	None

Notes:

(*) The number of cases where the insurance supervisory body actually took measures in order to deal with insurance companies in financial difficulties before or after they went bankrupt.

(1) The Insurance Authority petitioned the court for the winding up of the bankrupt insurer's Hong Kong branch in order to preserve the bankrupt insurer's assets in Hong Kong for protection of the local policyholders' interests in view of the liquidation proceedings taking place at its head office outside Hong Kong. No Hong Kong policyholders suffered financial loss in this case. The most difficult task or consideration of the Insurance Authority was the urgent need to appoint a special manager to take over the affairs of the insurer's Hong Kong operation and to assess the impact of its insolvency on the Hong Kong policyholders before considering petition to the court.

(2) A non-life insurance company was placed under close monitoring by the Bank Negara Malaysia (BNM) due to its failure to maintain the minimum solvency margin requirement. The financial condition of the company was closely monitored to prevent further deterioration. Measures taken included requiring the company to submit key financial information to the BNM on a monthly basis and to obtain approval from the BNM before incurring expenses exceeding a stipulated amount. On-site examinations were also conducted on the company on an annual basis. The principal considerations in the actions taken by the BNM were the protection of policyholders' interests and prevention of further erosion of the solvency margin, which would lead to eventual insolvency. In this case, the policyholders did not suffer any financial loss, as the business of the company was transferred to another insurer. Under the scheme of transfer, the acquiring company was required to honour all insurance liabilities (including contingent liabilities) of the acquired company.

(3) Two cases for failure to make good the deficiency of solvency margin and the capital impairment. In both cases, not all claims were paid to the full amount.

(4) During the Asian Financial Crisis of 1997/98, a few life insurers were required to designate assets from their shareholders' fund to meet the solvency of their life insurance funds. Based on year end 1999 audited results and appointed actuary's certification, all life companies were solvent. No policyholders suffered financial losses.

(5) For this company, licence was revoked because of the financial failure. This company had to be liquidated. In this case, some large claims payments have not been fully paid.

Table 24 **Cross-border Insurance Transactions other than Reinsurance**

Country	Admissibility of Cross-Border Insurance Transactions (1)	Admissibility of Intermediation by Insurance Brokers (2)
Brunei	Y motor insurance	N
Cambodia	Y marine hull and marine cargo	-
Hong Kong	Y(3) all classes of insurance other than compulsory reinsurance	Y(4)
India	N	N
Indonesia	N	N
Macau	Y all classes of insurance other than compulsory insurance	N (without the specific authorisation of the supervisory authority)
Malaysia	Y(5)	Y(6)
Philippines	N	N
Singapore	Y(7) all classes of insurance other than compulsory insurance	N(8)
Sri Lanka	N	N
Chinese Taipei	Y for risks relating to: (1) maritime shipping and commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom and (2) goods in international transit.	Y for risks relating to: (1) maritime shipping and commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising therefrom and (2) goods in international transit.
Thailand	Y marine, aviation, goods in transition and life(9)	N
Vietnam(10)	--	--

Notes: Y: Yes N: No

(1) This column indicates whether cross-border insurance transactions other than reinsurance are allowed and which classes of insurance can be transacted on a cross-border basis.

(2) This column indicates whether insurance brokers established in the country concerned are allowed to intermediate cross-border transactions other than reinsurance and which classes of insurance can be transacted in such a way.

(3) The insurer concerned must not maintain a place of business or be represented by any insurance agents in Hong Kong.

(4) Insurance brokers should intermediate insurance business in the first place to Hong Kong authorized insurers. Only when the insurance cover required is not available locally, the insurance brokers should intermediate cross-border transactions. In the latter case, all classes of insurance can be transacted on a cross-border basis except for compulsory insurance.

(5) Soliciting and advertising in Malaysia are not allowed. The prior approval of the supervisory authority is required for the following risks:
Movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia; and
Liability of a person resident in Malaysia to a third party.
Approval will be granted if such insurance is not available from any licensed direct insurer in Malaysia.

(6) In addition to risks which are not required to be insured in Malaysia, insurance brokers licensed in Malaysia are allowed to intermediate contracts for the cross-border insurance of Malaysian property or liability which have been approved by the supervisory authority for placement abroad.

(7) The Insurance Act does not prohibit residents and companies from purchasing insurance products directly from unregistered insurers.

(8) Singapore-registered insurance brokers cannot place domestic risks with unregistered overseas insurers unless they seek prior approval from the supervisory authority. Singapore-registered brokers are only allowed to source from foreign insurers if the type of cover (in terms of both nature and scope) demanded by the client is not available from Singapore insurers. Exceptions to this rule include risks outside Singapore, insurance risks relating to maritime liabilities of ship owners as insured by Protection and Indemnity Club.

(9) For life, insurers abroad are not allowed to engage themselves in active marketing activities.

(10) In the legislation of Vietnam, there is no provision related to cross-border insurance transactions.

Table 25 **Compulsory Classes of Insurance**

Country	Classes of Compulsory Insurance	Specific Regulations
Brunei	Motor Third Party Death and Injury Liability Insurance Workmen's Compensation Insurance	For Motor Third Party Liability Insurance, statutory deposits of 1 million Brunei Dollars in the form of "bank guarantee" are required.
Cambodia	Motor third Party Death and Injury Liability Insurance Passenger Transport Liability	
Hong Kong	Motor Third Party Death and Injury Liability Insurance Employees Compensation Insurance Third Party Liability Insurance in Launches, Ferry Vessels and Pleasure Vessels	Higher amount of solvency margin is required from non-life insurers carrying on compulsory classes.
India	Motor Third Party Liability Insurance Public Liability Insurance[(1)]	
Indonesia	Motor Third Party Death and Injury Liability Insurance Worker's Compensation Plan including Pension and Health	The specific law and other regulations regulate the role of a State-owned company, the premium rates and the typical risks to be covered.
Macau	Motor Third Party Liability Insurance Employees Compensation Insurance Professional Liability Insurance for Travel Agents Public Liability Insurance for Neon Signs Third Party Liability Insurance for Pleasure Vessels	The authority regulates the policy conditions and premium rates of compulsory classes of insurance.
Malaysia	Motor Third Party Death and Injury Liability Insurance Workmen's Compensation Insurance for Foreign Workers	In order to ensure that motor insurance covers are available in the market, the insurance industry has established the Malaysian Motor Insurance Pool (MMIP). Since the risks underwritten by MMIP are risks which have been rejected by insurers in the market, the imposition of additional loading and the application of excess above market levels are allowed. MMIP's administrative expenses, assets and underwriting results are shared equally by all insurers underwriting motor business in the market.
Philippines	Motor Third Party Death and Injury Liability Insurance[(2)] Public Liability Insurance[(3)]	
Singapore	Motor Third Party Death and Injury Liability Insurance Workmen's Compensation Insurance Third Party Liability Insurance for Power Crafts	Because there are certain risks with high level of hazards, the insurance industry has set up a Special Risks Pool to provide at least compulsory insurance coverage for motor tankers and other specialised motor risks which individual insurers are not willing to take up.
Sri Lanka	Motor Third Party Liability Insurance	Motor insurance tariff is fixed by the Controller of Insurance.
Chinese Taipei	Motor Third Party Death and Injury Liability Insurance Third Party Liability Insurance for the Taipei Rapid Transit Corporation (TRTC) Third Party Liability Insurance for Certain Entertainment Business	The policy conditions and premium rates of compulsory automobile liability insurance must be determined by the Ministry of Finance (MOF) and Ministry of Transportation and Communications. The premium rate of compulsory third party liability insurance for the TRTC shall be approved by both the Ministry of Transportation and Communications and the MOF. As for compulsory third party liability insurance for entertainment businesses, premium rates are determined by insurance companies based on the reference rates approved by the MOF.
Thailand	Motor Third Party Death and Injury Liability Insurance	
Vietnam	Motor Third Party Liability Insurance Contractors All Risks (CAR) Insurance for Government Funded Projects	Compulsory classes of insurance are subject to supervision on premium rates and policy conditions. It is obligatory for insurance companies to insure the risks.

Notes:

(1) This insurance covers risks related to hazardous chemical industries.

(2) The insurance policy can be replaced with the certain amount of surety bond issued by an insurance company or cash deposit.

(3) Public liability insurance is required in certain cities and towns in order to protect victims of accidents occurring on the premises of business establishments.

Table 26 **Insurance Distribution**

Country	Types of Intermediaries	Legislation on Intermediaries, in particular Insurance Brokers	Admissibility of Foreign Brokers
Brunei	2,3[(1)]	N	N
Cambodia	2,3	N	-
Hong Kong	1,2,3	Y[(2)]	Y
India	2[(3)]	Y	N
Indonesia	1,2,3	Y	N[(4)]
Macau	2,3 and "insurance salesmen"[(5)]	Y	Y[(6)]
Malaysia	1,2,3	Y	N[(7)]
Philippines	1,2,3	Y	n.a.
Singapore	1,2,3[(8)]	Y	Y[(9)]
Sri Lanka	1,2,3	Y	Y[(10)]
Chinese Taipei	1,2,3[(11)]	Y	Y[(12)]
Thailand	2,3	Y	N[(13)]
Vietnam	2,3	Y[(14)]	N

Notes: 1 Employees of Insurance Companies Y: Yes
2 Insurance Agents N: No
3 Insurance Brokers

(1) According to "Insurance in Asia" (Pearson Professional Limited, 1996), (i) two insurance brokers, both of which are joint ventures between international brokerage houses and Brunei parties, are currently registered to conduct business in Brunei, and (ii) there are numerous insurance agents, most of which handle small portfolio of business.

(2) Insurance intermediaries are subject to a self-regulatory system supported by legislation which defines the distinct roles of an insurance agent and an insurance broker and requires insurance agents to be appointed or insurance brokers to be authorised in prescribed manner. To enhance the professional standard of insurance intermediaries, the Insurance Intermediaries Quality Assurance Scheme ("IIQAS") has been implemented since 2000. It comprises a publicly held qualifying examination system and a requirement to attend a continuing professional development programme, i.e. courses organized by accredited bodies and recognized training programmes. In general, all insurance intermediaries, their chief executives and technical representatives will be required to pass the Qualification Examination before admission and to attend a continuing professional development programme as a condition for re-registration.

(3) Insurance brokerage system is being introduced.

(4) Without business licence from the Minister of Finance, they are not admissible.

(5) At the end of November 2000, the intermediary sector was made up of 1,498 insurance intermediaries, comprising 1,430 individual agents, 37 local corporate agents, 8 overseas corporate agents, 16 salesmen and 7 overseas brokers.

(6) Foreign brokers are mainly involved in the corporate accounts which relate to property and liability insurance.

(7) Without being licensed under the Insurance Act 1996, they are not admissible.

(8) The intermediaries operating in Singapore are predominantly agents and brokers.

(9) Foreign brokers deal in a wide array of commercial as well as specialised lines such as marine, professional indemnity, aviation, protection and indemnity insurance.

(10) Foreign brokers are allowed to engage in reinsurance business related to marine, aviation, fire, engineering and commercial risks.

(11) In the field of life insurance, agents and brokers account for respectively 4.3% and 4.36% of market share. In the field of non-life insurance, agents and brokers account for respectively 73.28% and 12.3% of market share.

(12) Most of foreign brokers operate non-life insurance.

(13) Foreign brokers are not allowed to operate, but it is not prohibited for foreign brokers to advise an insurance company to enter into a reinsurance contract with an insurer abroad.

(14) There is a circular by the Ministry of Finance concerning insurance agents.

Table 27 **Bancassurance**

Country	Maximum Percentage of Banks' Shares held by Insurers[1]	Maximum Percentage of Insurers' Shares held by Banks[2]	Creation of Banking Subsidiaries by Insurers[3]	Creation of Insurance Subsidiaries by Banks[4]	Distribution of Financial Products other than Insurance by Insurers[5]	Distribution of Insurance Products by Banks[6]
Brunei	n.a	n.a.	N	Y	N	N
Cambodia[7]	_	_	_	_	_	_
Hong Kong	100%	100%	Y[8]	Y	Y[9]	Y[10]
India	2%	50%	N	Y	N	Y
Indonesia	100%[11]	100%	Y	Y	N	Y
Macau	100%[12]	100%	Y	Y	_[13]	Y[10]
Malaysia	20%	100%	N	Y	Y	Y
Philippines	100%[14]	100%	Y	Y	N	Y
Singapore	100%[15] [16]	100%[16]	Y	Y	Y[17]	Y
Sri Lanka	5%	20%	N	N[18]	N	N
Chinese Taipei	5%	0%	N	N	N[19]	Y[20]
Thailand	10%	10%	N	N	_	_
Vietnam	_[21]	_[21]	N	Y	N	N

Notes: Y: Yes N: No

(1) This column indicates the maximum percentage of banks' shares which insurance companies are allowed to hold.
(2) This column indicates the maximum percentage of insurance companies' shares which banks are allowed to hold.
(3) This column indicates whether insurance companies are allowed to create banking subsidiaries.
(4) This column indicates whether banks are allowed to create insurance subsidiaries.
(5) This column indicates whether insurance companies are allowed to distribute financial products other than insurance.
(6) This column indicates whether banks are allowed to distribute insurance products
(7) No specific policy has been taken yet.
(8) Insurance companies have to ensure that the creation of banking subsidiaries does not pose a threat to the interest of the policyholders of the insurance companies concerned.
(9) Insurance companies have to ensure that the distribution of financial products other than insurance is not contrary to the interest of their existing and potential policyholders.
(10) Banks have to fulfil requirements as insurance intermediaries.
(11) The placement is limited to 10% of total investments of an insurance company.
(12) Any shareholding in excess of 10% would be subject to the "fit and proper" test carried out by the banking supervisory authority (the Banking Supervision Department of the Monetary Authority of Macau).
(13) Other than traditional insurance products, life insurance companies are also permitted to commercialise products which include insurance, savings and investment components, e.g. unit –linked and universal life products.
(14) An insurance company can hold up to 100% of total capital stock of a bank, if this holding does not exceed 10% of its total admitted assets.
(15) Insurance regulations set out "Counterparty Limits" which prevent insurers form concentrating their investments in any one single entity or group of entities. In the case of approved financial institutions or group of approved financial institutions related to one another, exposure limit is 20% of Singapore Insurance Fund Assets.
(16) Subject to the authority's approval.
(17) Insurance Act does not expressly prohibit insurance companies from distributing financial products other than insurance. However, insurance companies may have to seek licensing under the relevant Acts (e.g. Banking Act) before they can engage themselves in such an activity.
(18) Banks are allowed to create insurance brokerage subsidiaries.
(19) Amendments to laws and regulations are under way in order to introduce investment-linked insurance products.
(20) Banks may apply to the supervisory authority for registration to engage themselves in property insurance brokerage operations related to banking business. However, a separate department shall be established for such operations with independent capital operations and accounting.
(21) There is no regulation in respect.

Table 28 **Tax Incentives for Life Insurance Products**

Country	Existence and Content of Tax Incentives
Brunei	N
Cambodia	N
Hong Kong	N (except certain provident fund products)
India	Y Income tax incentives on 20% of premium paid as a deduction from tax payable. Contribution to the Employees Provident Fund is tax-deductible.
Indonesia	N
Macau	N
Malaysia	Y Tax relief of M$5 000 for contributions to Employees Provident Fund and life insurance premiums. Tax relief of M$3 000 on premiums paid for insurance on education or medical benefits in respect of an individual, his/her spouse or children. Individuals who purchase annuities by using their Employees Provident Fund contributions enjoy additional tax relief up to a maximum of RM1 000 per annum over and above the existing tax relief of RM5 000 for contributions to approved provident funds and life insurance premiums. The sums received by way of annuities granted under annuity contract issued by Malaysian life insurers (majority ownership is held by Malaysian) be exempted from tax.
Philippines	N
Singapore	Y The amount of tax deduction allowable is the lower of the annual insurance premiums payable or 7% of the capital sum assured. Furthermore, the maximum deduction in respect of insurance products purchased together with the contributions to the Central Provident Fund (CPF, a mandatory retirement fund) is capped at S$5 000 annually.
Sri Lanka	Y The premium payments for life insurance policies are tax deductible for income tax purposes.
Chinese Taipei	Y Life insurance premium paid by the tax payer, his/her spouse and lineal relatives shall be deductible in the individual income tax to the extent of T$24 000 per person.
Thailand	Y Life insurance premium is tax deductible up to Bt10 000 for policyholders
Vietnam	N

Notes: Y: Yes N: No

Table 29 **Insurance Industry Associations : Self-regulatory Function**

Country	Name	Existence of Self-regulatory Function
Brunei	General Insurance Association of Brunei Darussalam	Y
Cambodia	N	N
Hong Kong	Hong Kong Federation of Insurers Hong Kong Confederation of Insurance Brokers Professional Insurance Brokers Association Limited	Y (Hong Kong Federation of Insurers handles registration of insurance agents and ensures their compliance with the code of practice issued by the Federation. It also issues codes of conduct for its member insurers to follow. For certain classes of insurance, it provides its members with reference premium rates, but leaves its members to determine their own premium rates. Two bodies of insurance brokers are responsible for ensuring their member brokers to comply with the minimum requirements for insurance brokers). The Insurance Authority may from time to time liaise with the Federation on legislative matters and market developments.
India	Insurance Council separate for life and non-life insurers	Y
Indonesia	n.a.[1]	Y (setting of standard policy form, setting up of adequate premium rates for motor and fire insurance, arbitrary settlement)
Macau	Macau Insurers' Association Macau Insurance Agents and Brokers Association	N
Malaysia	Life Insurance Association of Malaysia General Insurance Association of Malaysia Insurance Brokers Association of Malaysia Association of Malaysian Loss Adjusters	Y (setting of codes of practice, policy conditions and premium rates). The life and non-life insurance associations in Malaysia are also primarily responsible for the registration, regulation and professional development of agents. In addition, they serve as platforms through which the Authority discusses various issues of regulatory concerns with the industry.
Philippines	Philippine Life Insurance Association Insurance & Surety Association of the Philippines Philippine Insurance Rating Association Philippine Insurers Club Association of Insurance Accountants of the Philippines Philippine Association of Surety Underwriters Marine Underwriters Association of the Philippines Association of Insurance Brokers of the Philippines Association of Philippine Adjustment Companies Credit Association of Surety and Insurance Companies Reinsurance Exchange Club of the Philippines General Insurance Agents' Association of the Philippines Association of Insurance Claimsmen Philippine Insurance Institute	Y (setting of codes of practice, registration requirements, etc.) The Philippines Insurance Rating Association is a licensed organization for non-life insurance. It sets premium rates and policy wordings of non-life insurance.
Singapore	Life Insurance Association General Insurance Association Singapore Reinsurer's Association Singapore Insurance Brokers Association Reinsurance Brokers Association of Singapore	Y (setting of codes of practice, administering the registration of agents and brokers, ensuring that they comply with market code of conduct and agreement on disclosure standards). They serve as platforms through which the Authority discusses various issues of regulatory concerns with the industry.
Chinese Taipei	Non-life Insurance Association of the Republic of China Life Insurance Association of the Republic of China	Y (Setting of codes of practice)
Sri Lanka	Insurance Association of Sri Lanka Sri Lanka Insurance Brokers Association	Y (setting of codes of conduct)
Thailand	General Insurance Association Thai Life Assurance Association	N (but Thai Life Assurance Association takes part in the examination of agents).
Vietnam	N[2]	-

Notes: Y: Yes N: No
(1) The exact name of the association is not mentioned.
(2) Vietnam plans to establish an insurance association early next year.

Table 30 **Future Co-operation with OECD**

Country	Items/Issues	Modality	Importance
Brunei	Supervisory issue	- Technical assistance - On-the-job staff training - Exchanging information	
Cambodia			On the resumption of insurance business after a long period of absence, this country really needs assistance and co-operation for the development of the insurance industry, aiming at shaping the Cambodian insurance market to be sound and strong and to catch up with the international standard with the goal to develop economically and socially. Further talk with the OECD would be very necessary if possible.
Hong Kong	- Measures to enhance the transparency of the operation of insurance market to enable insurers, consumers and investors to make informative and effective decisions. - Measures to promote professional standard of insurance intermediaries and to assure their quality of service to better protect policyholders' interests. - Legislative reforms that will render the regulation of insurance companies to be more effective and efficient.	On a continuous basis through discussion and exchange of information and experience in the form of correspondence, seminars, conferences and visits.	
India	Issues related to solvency, reinsurance, accounting and disclosure.	Training and seminars	The Insurance Regulatory and Development Authority will most certainly strive for co-operation with the OECD. It is hoped that this will be a sustaining one.
Indonesia		- Seminar - Study tour (comparative study) - Conference - Technical assistance	
Macau	- Method of computation and interpretation of market statistics. - Financial analysis of insurance and reinsurance companies. - On-site inspection techniques	Technical assistance by way of hands-on training	Dialogue with the OECD is important in order to share past/current experiences and latest techniques in prudential supervision.

Table 30 **Future Co-operation with OECD (continued)**

Malaysia	(i) Addressing issues arising from current economic turmoil - ways to enhance the insurance sector's capability to mobilise financial resources for economic development. - measures to improve transparency and corporate governance within the insurance sector. - ways to improve the effectiveness of solvency regulation. - measures to further strengthen the insurance industry, particularly in emerging economies. -the appropriate approach to liberalisation under current economic conditions. (ii) Preparing for a liberalised market - technical input from developed markets on the regulatory framework necessary for effective regulation in an open market environment. - establishment of formal channels for supervisory information exchange on cross-border insurance activities. - technical transfer programmes to enhance domestic market expertise.		
Philippines	Supervisory education and Reinsurance regulations	-Technical Assistance -Training seminars for knowledge update -Exchange of information	-To increase the competence of regulatory staff -Knowledge and skills should be able to address the demands of modern insurance industry as well as global economy -Foreign reinsurers are located beyond the jurisdiction of supervisory authority of reinsured.
Singapore	- Private Pensions and Private Health Insurance - Prudential Policies and Regulatory Reforms in Insurance	- Training seminars - Technical assistance – availability and access to insurance experts of OECD Member countries - Exchange / Secondment of officers to the various insurance jurisdictions	

Table 30 **Future Co-operation with OECD (continued)**

Sri Lanka			The main objective of the Regulation of the Insurance Industry Act No. 43 of 2000 which is expected to be operative from 01.01.2001, is to establish a Board as regulator with wider supervisory powers as it is found that the present regulatory powers of the Controller as a governmental department are somewhat limited. The dialogue between OECD Member countries and Asian countries will be helpful in the initial stages of the establishment of the Board.
Chinese Taipei	Supervisory issues related to e-commerce	- symposia - training programs	Due to rapid growth of the global electronic trading, e-commerce has become an increasingly important issue to financial authorities world-wide. We expect that more insurance companies will be interested in doing insurance business by the Internet. Through the sharing of experience with other regulators, we hope to improve the regulatory framework in the region as well as the skills and knowledge of our staff.
Thailand		- Technical assistance - Training	The lack of insurance personnel in Thailand at all levels, particularly in advanced technical and specialised areas of insurance, has a great impact on the insurance industry which at present has to deal with the business recession. Therefore, co-operation with the OECD will certainly improve the efficiency of insurance personnel through training or technical assistance by providing insurance expertise.
Vietnam		- Technical assistance - Information exchange - Training - Other international co-operation.	

PART II

INSURANCE REGULATION AND SUPERVISION IN LATIN AMERICA

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16 PARTICULARITIES[1]

Through this study, the following 16 particularities have been observed in insurance regulation and supervision in Latin-America. Needless to say, not all Latin-American countries share these particularities

Supervisory Authority Specialising in Insurance Supervision or Financial Supervision including Insurance

In all countries except for Costa Rica, where insurance business is monopolised by the State entity, there is a supervisory body which specialises in insurance supervision or financial supervision including insurance. No country reports that a division or a department within a Ministry is responsible for insurance supervision. 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 two countries, one supervisory body is responsible for both securities and insurance supervision.

Admissibility of Composite Insurers

12 Latin-American countries still allow the establishment of composite insurers which concurrently conduct both life and non-life business. In 14 Latin-American countries, there exist at present composite insurers. In the vast majority of these countries, it is not clear how the separation of accounts between life and non-life is ensured, in particular in the cases of liquidation of composite insurers.

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1. **General Remark**: This survey covers 18 Latin-American countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela), which are members of the Association of Latin-American Insurance Supervisors (ASSAL) and participated in the OECD/IAIS/ASSAL Conference on Insurance Regulation and Supervision in Latin America held on 6-8 September 2000 in Oaxaca, Mexico. The survey is mainly based on responses of these countries to the OECD questionnaire and bilateral consultation with them. Therefore, in this study, "Latin-American countries" means these 18 Latin-American countries.
   Although Mexico is an OECD Member country and as such is already included in the OECD database related to insurance, this country has been included in this study for reference because of the importance of Mexico's insurance market in Latin America.

Non-necessity of Business Plan

In OECD countries, a business plan is considered as a key element of licensing process, because it allows an applicant to demonstrate its ability to make appropriate estimations for future three to five years activities and the supervisory authority to assess the relevance of such estimations. Therefore it is noteworthy that only seven Latin-American countries report that they require the submission of a business plan or a similar document. Five countries require the submission of a feasibility study instead of a business plan. Even among the seven 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. It is noteworthy that three countries explicitly report that, at least at this stage, no business plan is required.

Restrictions on Market Access

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 five countries, the market access in the insurance field is completely restricted. The application of an economic needs test is reported by and/or stated in the WTO commitments of six other countries.

Four countries directly restrict the establishment of wholly-owned subsidiaries, whereas in the majority of the other countries it is indirectly restricted, being subject to the non-coverage by the WTO, the suspension of new authorisation or the application of an economic needs test.

Nine countries directly restrict the establishment of branches by foreign insurers. In the majority of the other nine countries, it is also indirectly restricted, being subject to the existence of the State monopoly, the suspension of new authorisation or the application of an economic needs test.

Restrictions on market access in the majority of Latin-American countries in respect of market access probably come from relatively weak financial position of national insurers and/or already high market share of existing foreign-controlled insurers. Some countries justify their restrictions by referring to prudential reasons.

High Periodicity of Reporting

The periodicity of reporting in Latin-American countries is relatively high. In most countries, the solvency margin can be monitored by the supervisory authority either on a monthly or quarterly basis. In all Latin-American countries except one, on-site inspection is carried out. Nonetheless, some Latin-American countries have experienced a number of insurance companies in financial difficulties.

European Type of Solvency Requirements

All Latin-American countries except two have adopted solvency requirements for insurance companies. In Latin America, solvency requirements are based on or similar to those of the EU Directives and therefore a certain level of capital is required according to premiums or claims in non-life insurance, and mathematical provisions and sums at risk in life insurance.

Non-adoption of Prudent-man Rules

In respect of investment regulations, no Latin-American country reports the adoption of prudent-man rules. In all Latin-American countries except one, there exist legal provisions concerning investments by insurance companies. Such provisions stipulate most typically admissible investments and a set of maximum limits on certain categories of investments. One country reports the existence of maturity matching requirement, and another country reports the existence of currency matching requirement.

Restrictions on Portfolio Investments Abroad

In all Latin-American countries, portfolio investments abroad are either prohibited or subject to the various limitations. In this respect, it should be pointed out that the OECD Committee on Capital Movements and Invisible Transactions have agreed that quantitative restrictions on gross flows of portfolio investment abroad by insurance companies and pension funds should be reflected in reservations to the OECD Code of Liberalisation of Capital Movements and submitted to the progressive liberalisation obligation of the Code.

High Proportional Weight of Other Investments

In some countries, the proportional weight of “other investments” (investments other than real estate, shares, bonds and loans) in total investments is very high. In nine countries, the weight of “other investments” exceeds 40%. This situation has more to do with the structure of capital markets in these countries than the restrictiveness of their respective investment regulation.

Maximum Retention Limit

In respect of reinsurance, in some Latin-American countries, the maximum retention limits are stipulated. This point is noteworthy, because the maximum retention limits are somewhat contrary to the intention of insurance legislation of some non-OECD Member countries to improve the balance of payments of their respective countries. As reasons for imposing the maximum retention limits, one Latin-American country refers to prudential reasons, and another country mentions the relatively small size of capital requirements and the imminent exposure to catastrophic losses in this region.

Registration System for Foreign Reinsurers

All Latin-American countries allow cross-border reinsurance transactions. Ten countries report the existence of a registration system for foreign reinsurers, which ensures a certain financial security of foreign reinsurers. In this respect, it should be pointed out that in 1998 the OECD has issued the Council Recommendation on Assessment of Reinsurance Companies.

Internal Auditor

In all Latin-American countries, the appointment of an auditor is obligatory. Four countries report that 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.

Non-existence of Policyholders' Protection Fund

In 16 Latin-American countries, there exists no policyholders' protection fund. Only two countries report the existence of such funds, but in both of these two countries they cover pension (retirement) and workers' compensation only. The non-existence of such funds could be worth to review, in particular because some Latin-American countries have experienced a number of insurance companies in financial difficulties.

Relatively High Number of Insurance Companies in Financial Difficulties

During the three years between 1996 and 1998, eight Latin-American countries have experienced a number of cases where policyholders actually suffered or may have suffered financial losses. It is noteworthy that eight countries report altogether 53 cases of compulsory liquidation or termination and in most of these cases the policyholders suffered or may have suffered financial losses.

This situation seems to be more serious than that experienced by Asian economies during the same time period. According to another OECD study covering 12 Asian economies (Brunei, Hong Kong, Indonesia, Laos, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Vietnam), during the three years between 1996 and 1998, policyholders suffered actual financial losses in at most three cases in these economies.

The causes for such difficulties reported by Latin-American countries are very various, covering almost all aspects of financial supervision. The causes are related to the following aspects: management, accounting, regulatory system of the previous administration, technical provisions, liquidity, rapid growth, adverse loss experience, reinsurance including financial reinsurance, excessive administrative expenses, internal control, the recession of economy and the financial crisis.

Non-existence of Compulsory Motor Insurance

In the vast majority of the OECD Member countries, motor liability or accident insurance is compulsory. However, only eight Latin-American countries report that motor liability or accident insurance is compulsory. This may cause major social problems, because the use of motor vehicles entails serious and widespread risks.

Non-existence of Self-regulatory Functions of Insurance Industry Associations

In all Latin-American countries except two, there exist industry associations of insurers. It is noteworthy that no country reports the existence of self-regulatory functions of industry associations such as the setting of codes of practice, the setting of registration requirements of insurance intermediaries, the registration of insurance intermediaries. Some Latin-American countries report that insurance brokers have to be registered with the supervisory authority, not with the industry associations. But, at least in respect of the setting of codes of practice, there should be a potential for industry associations to play an important role.

EXECUTIVE SUMMARY

I. Organisational Structure of Insurance Supervisory Authority

All Latin-American countries, with the one exception of Costa Rica, report the existence of an insurance supervisory authority. The non-existence of an insurance supervisory authority in Costa Rica is related to the fact that in this country the State monopoly has been providing all lines of insurance since 1924.

In all countries except for Costa Rica, there is a supervisory body which specialises in insurance supervision or financial supervision including insurance. No country reports that a division or a department within a Ministry is responsible for insurance supervision. 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 two countries, one supervisory body is responsible for both securities and insurance supervision.

The financing methods of an insurance supervisory body can be classified into the following five categories: (i) by the State budget only, (ii) by the Central Bank only, (iii) by supervised institutions only, (iv) by the State budget and supervised institutions and (v) by the Central Bank and supervised institutions.

The number of staff involved in insurance supervision ranges from 6 in Nicaragua to 396 in Mexico.

II. Licensing

Specialisation

Two Latin-American countries report the exclusivity of the objective or scope of activities of insurance companies. The establishment of composite insurers is still allowed in 12 countries.

Regarding the creation of banking subsidiaries of insurance companies, and insurance subsidiaries of banking institutions, three countries report that they do not allow such cross-sectoral investment, while three other countries basically allow it. No information in this respect has been provided by the other countries.

Licensing Requirements

In all Latin-American countries except for Costa Rica, where insurance business is monopolised by the State entity, the establishment of insurance companies is subject to the licence granted by the insurance supervisory/regulatory authority.

13 countries refer to admissible legal forms. All countries except for Costa Rica report the existence of a minimum capital requirement. Four countries report the application of a measure to reflect inflation in the amount of a minimum capital.

It is noteworthy that only seven countries report that they require the submission of a business plan or a similar document. Five countries require the submission of a feasibility study instead of a business plan. The content of such a feasibility study is reported by one country only. Even among seven 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.

In at least four countries, there exist the nationality and/or residence requirements related to the management and/or employees of insurance companies.

Market Access

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 five countries, the market access in the insurance field is completely restricted. The application of an economic needs test is reported by and/or stated in the WTO commitments of six other countries.

Four countries directly restrict the establishment of wholly-owned subsidiaries, whereas in the majority of the other countries it is indirectly restricted, being subject to the non-coverage by the WTO, the suspension of new authorisation or the application of an economic needs test.

Nine countries directly restrict the establishment of branches by foreign insurers. In the majority of the other nine countries, it is indirectly restricted, being subject to the existence of the State monopoly, the suspension of new authorisation or the application of an economic needs test.

III. Solvency Supervision

Insurance Accounting Principles

13 Latin-American countries report the adoption of specific insurance accounting principles, while five countries report no adoption of such principles. Of countries reporting the adoption of specific insurance accounting principles, in principle, five countries adopt the Generally Accepted Accounting Standards (GAAP), three countries adopt the International Accounting Standards (IAS), and Peru adopts both the GAAP and the IAS. As for the five countries reporting no adoption of such principles, accounting practice is based on the GAAP in two countries, and is based on both the GAAP and the IAS in one country.

Reporting

In all Latin-American countries except one, insurance companies are required to submit periodically their financial documents to the insurance supervisory authority. The periodicity of reporting in Latin-

American countries is relatively high. The periodicity of reporting can be classified into the following frequencies: (I) "annual return, complemented by semi-annual, quarterly and monthly return", (II) "annual return, complemented by quarterly and monthly return", (III) "annual return, complemented by monthly return", (IV) "annual return, complemented by quarterly return", and (V) "annual return only".

On-site Inspection

In all Latin-American countries except one, on-site inspection is carried out. Regarding the periodicity of on-site inspection, one country reports that on-site inspection is conducted, depending on the solvency of insurance companies (not on a periodical basis). Six countries report that the timing and frequency of on-site inspection depends in particular on certain situations, although some degree of periodicity is envisaged. Three countries mention periodical on-site inspection only. It is understood, however, that in these countries the supervisory authority also has the power to conduct on-site inspection whenever it deems it is necessary.

Solvency Requirements

All Latin-American countries except two have adopted solvency requirements for insurance companies. In five countries, solvency requirements are based on or similar to those of the EU Directives. In one country, the solvency margin is stipulated by taking into account both the EU Directives and the Basle Committee rules. Some of the other countries report their respective solvency requirements which are based on a certain level of capital and therefore similar to the concept of the EU Directives.

In most countries, the solvency margin can be monitored by the supervisory authority either on a monthly or quarterly basis.

Technical Provisions

All Latin-American countries except one have adopted principles or guidelines related to the setting-up or calculation of technical provisions. In the case of life business, "mathematical provisions" are referred to by most countries. In the case of non-life business, "provisions for unearned premiums" and "provisions for outstanding claims", including "incurred but not reported (IBNR)", are referred to by most countries. Nine countries report "equalisation reserve" or provisions similar to "equalisation reserve".

Investment Regulation

(a) Evaluation Method of Investments

13 Latin-American countries report the existence of insurance legislation concerning the evaluation method of investments. Three countries report the non-existence of such insurance legislation.

Five countries use in principle the lower of cost or market value. Four countries use in principle market value.

(b) Content of Investment Regulation

In all Latin American countries except one, there exist legal provisions concerning investments by insurance companies. Such provisions stipulate most typically admissible investments and a set of maximum (and/or minimum) limits on certain categories of investments (three countries report the existence of minimum limits).

One country reports the existence of maturity matching requirement, and another country reports the existence of currency matching requirement.

In some countries, the proportional weight of "other investments" (investments other than real estate, shares, bonds and loans) in total investments is very high. In nine countries, the weight of "other investments" exceeds 40%.

(c) Portfolio Investment Abroad

In three Latin-American countries, portfolio investments abroad are not allowed or in principle prohibited. In 15 other countries, portfolio investments abroad are limited.

Reinsurance

(a) Regulation and Supervision on Reinsurance Specialists

In all of the eight Latin-American countries where reinsurance specialists exist, reinsurance specialists are regulated or supervised. Two countries report that reinsurance specialists are in principle subject to the same regulation and supervision as direct insurers. Three countries report that reinsurance specialists have to be licensed.

(b) Regulation and Supervision on Reinsurance Arrangements

14 Latin-American countries report the existence of the regulation or supervision on reinsurance arrangements of direct insurers. It should be noted that, in some countries, the maximum retention limits are stipulated. As reasons for imposing the maximum retention limits, one country refers to prudential reasons, and another country mentions the relatively small size of capital requirements and the imminent exposure to catastrophic losses in the region.

(c) Cross-border Reinsurance Transactions

All Latin-American countries allow cross-border reinsurance transactions. Ten countries report the existence of a registration system for foreign reinsurers.

(d) Domestic Retention Requirements

Two Latin-American countries report the existence of domestic retention requirements.

Supervision on Policy Conditions and Premium Rates

In all Latin-American countries except one, the insurance supervisory authority supervises the policy conditions of new products. In most countries, the supervision on premium rates is less intensive than that on policy conditions.

Claims Data Collection on a Broader Basis

Nine Latin-American countries report the existence of a single body which collects claims data of individual insurers so that claims data of individual companies can be shared among a broader group of insurance companies and thus adequate premium rates can be calculated on a broader statistical basis. For most of these nine countries, however, it is not clear whether claims data related to loss frequency and loss severity are in fact collected.

Actuary

In ten Latin-American countries, the appointment of an actuary is not obligatory. In eight countries, the appointment of an actuary is obligatory. Of these eight countries, four countries report that such obligation applies to life insurance companies (or operation) only.

Auditor

In all Latin-American countries, the appointment of an auditor is obligatory. Four countries report that insurance companies have to appoint both external and internal auditors. The main duty of an (external) auditor is to prepare an annual auditing report. However, in four countries, an auditor is involved not only in the preparation of an annual auditing report but also in the preparation of other reports.

IV. Insurance Companies in Financial Difficulties

Reference to Solvency Margin

Nine Latin-American countries explicitly state that they refer to the solvency margin in order to detect insurance companies in financial difficulties.

Possible Measures

No Latin-American country reports the existence of specific guidelines which systematically indicate what kind of measures can (or should) be taken in what circumstances, in particular based on certain ratios related to the solvency margin.

The following measures are reported as possible: the prohibition of underwriting new contracts and/or renewal of existing contracts, the prohibition of the free disposal of assets, the prohibition of granting collateral and guarantee, portfolio transfer, capital injection, the restoration of adequacy of investment and/or reinsurance arrangements, setting a restoration plan including sale of the company, taking over management/control, compulsory suspension or termination of business operations, etc.

Portfolio Transfer

14 Latin-American countries report that the organisation of portfolio transfers by the supervisory body is common or feasible before the actual bankruptcy of an insolvent insurance company.

Policyholders' Protection Fund

In 16 Latin-American countries, there exists no policyholders' protection fund. Only two countries report the existence of such funds, but in both of these two countries they cover pension (retirement) and workers' compensation only.

Liquidation Procedure

11 Latin-American countries report the existence of the preferential status of policyholders in the liquidation procedure of bankrupt insurance companies.

Cases of Insurance Companies in Financial Difficulties for 1996-1998

Eight Latin-American countries report a number of cases where policyholders actually suffered or may have suffered financial losses. It is noteworthy that eight countries report altogether 53 cases of compulsory liquidation or termination and in most of these cases the policyholders suffered or may have suffered financial losses.

This situation seems to be more serious than that experienced by Asian economies during the same time period. According to another OECD study covering 12 Asian economies (Brunei, Hong Kong, Indonesia, Laos, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Vietnam), during the three years between 1996 and 1998, policyholders suffered actual financial losses in at most three cases.

The following causes for such difficulties are reported: "financial incapabilities, irregularities in management or accounting, and the infringement of accounting rules", "poor management and a passive and inappropriate regulatory system of the previous administration", "the insufficiency of technical provisions and/or the lack of liquidity", "rapid growth, adverse loss experience, the insufficiency of technical reserves due to financial reinsurance treaties and the recession of the economy", "the lack of liquidity", "losses which caused its capital to fall below the minimum requirement, bad management and excessive administrative expenses", "financial problems", "internal control, investment risk, technical risk, reinsurance risk, management and operational risk" and "the 1994 financial crisis and potential bond execution (as collateral) in which the amount at risk might significantly affect the net worth of an insurer".

V. Other Issues

Compulsory Insurance

While five Latin-American countries report the non-existence of compulsory classes of insurance, five other countries have relatively many classes of compulsory insurance (respectively 16, 15, 8, 6 and 5).

Only eight countries report that motor liability or accident insurance is compulsory. Only four countries report that workers' compensation is compulsory.

Insurance Distribution

All Latin-American countries except one report the existence of insurance brokers. With the exception of one country, all countries with insurance brokers have insurance legislation related to insurance brokers. Such legislation covers the following points: authorisation or registration, qualification, disclosure requirements, and financial guarantees and/or professional liability insurance.

Tax Incentives for Life Insurance Products

All Latin-American countries except four report the existence of tax incentives for life insurance products.

Insurance Industry Associations

In all Latin-American countries except two, there exist industry associations of insurers. It is noteworthy that no country reports the existence of self-regulatory functions of industry associations such as the setting of codes of practice, the setting of registration requirements of insurance intermediaries, the registration of insurance intermediaries.

COMPARATIVE STUDY

I. Organisational Structure of Insurance Supervisory Authority

All Latin-American countries, with the one exception of Costa Rica, report the existence of an insurance supervisory authority.

In Costa Rica, until now there has been no insurance supervisory body, although there is a legislative project to create the Superintendency for Insurance Entities, Bonds, Guarantees and Pension Funds. The non-existence of an insurance supervisory authority in this country 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. Most of the particularities related to the insurance regulation and supervision of this country, which appear in the following sections, can be explained by the existence of the State monopoly and/or the non-existence of an insurance supervisory body in this country.

In all Latin-American countries except for Costa Rica, there is a supervisory body which specialises in insurance supervision or financial supervision including insurance. No Latin-American country reports that a division or a department within a Ministry is responsible for insurance supervision.

In eight Latin-American countries (Argentina, Brazil, Cuba, Mexico, Panama, Paraguay, Uruguay and Venezuela), there is a supervisory body specialised in insurance supervision. In seven Latin-American countries (Colombia, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua and Peru), a banking supervisory body conducts insurance supervision as well. In Bolivia and Chile, one supervisory body is responsible for both securities and insurance supervision.

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

(i) by the State budget only – Argentina and Chile

(ii) by the Central Bank only – Paraguay and Uruguay

(iii) by supervised institutions only – Bolivia, Brazil, Colombia, Ecuador, Mexico, Peru and Venezuela

(iv) by the State budget and supervised institutions – Cuba and Panama

(v) by the Central Bank and supervised institutions – El Salvador, Guatemala, Honduras and Nicaragua (in Honduras, 50% is financed by the Central Bank, with the remaining 50% financed by supervised institutions, and in Nicaragua, 25% is financed by the Central Bank, with the remaining 75% financed by supervised institutions)

Mexico and Panama explicitly report that not only insurers but also insurance intermediaries have to provide financial contribution (insurance intermediaries in a broader sense (in Mexico) and insurance brokers (in Panama)). In El Salvador, only banks, together with the Central Bank, have to provide the Superintendence of Financial System with financial contribution. But the new law will require insurers to do this.

The number of staff involved in insurance supervision ranges from 6 in Nicaragua to 396 in Mexico.

II. Licensing

Specialisation

Regarding the objective of insurance companies, Brazil reports that the objective of insurance companies must be exclusive, although insurers authorised to operate life business may place open pension funds business. Regarding the scope of activities of insurance companies, Honduras reports that insurance companies can be engaged in activities directly related to their insurance operation. Likewise, insurance companies should not carry out any activities other than those in connection with, or for the purposes of their insurance business.

12 Latin-American countries still allow the establishment of composite insurers. In 14 Latin-American countries (Argentina, Brazil, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela), there exist at present composite insurers which concurrently conduct both life and non-life business. Of these 14 countries, 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 Chile and Colombia report that accident and health business can be placed by both life and non-life insurers.

Regarding the separation of life and non-life accounts within composite insurers, Honduras reports that legislation does not require investments and accounts to be separated between life and non-life insurance, whereas Peru reports that composite insurers must submit separate accounting information. It is not certain whether, in the 12 other Latin-American countries having composite insurers, the separation of accounts between life and non-life is required. In this respect, however, it should be pointed out that, for a table related to investments by direct insurers (see Table 5), five countries (Argentina, Ecuador, El Salvador, Paraguay and Venezuela) have provided both life and non-life figures, while seven countries (Brazil, Costa Rica, Guatemala, Mexico, Nicaragua, Panama and Uruguay) have provided total figures only, because separate data are not available in these countries.

Regarding the creation of banking subsidiaries of insurance companies, and insurance subsidiaries of banking institutions, three Latin-American countries (Colombia, El Salvador and Mexico) report that they do not allow such cross-sectoral investment, although in Mexico the participation of insurers and banks in financial conglomerates is allowed. In Panama, there is no restriction on cross-sectoral investment. In Peru, insurers are allowed to create, as their subsidiaries, financial institutions, and vice versa. In Chile, insurance companies are allowed to create banking subsidiaries, whereas banks are not allowed to create insurance subsidiaries (banks are allowed to have insurance brokerage subsidiaries only). This situation is currently under review.

Licensing Requirements

Note: In Costa Rica, there exists no licensing procedure which could authorise the establishment of new insurance companies, because in this country insurance business is monopolised by the State entity. In respect of the World Trade Organization (WTO) commitments of this country, the insurance sector is outside the scope of its commitment. Therefore the analysis related to Costa Rica is reserved in respect of "licensing requirements". Accordingly, for this section, "all Latin-American countries" means "all 18 Latin-American countries except for Costa Rica".

In all Latin-American countries, the establishment of insurance companies is subject to the licence granted by the insurance supervisory/regulatory authority.

13 Latin-American countries refer to admissible legal forms. A "stock company" is admissible in all of these countries, although they call it by different names ("public limited company"(Argentina), "corporation"(Brazil, Chile and Colombia), "anonymous society"(Cuba, Honduras and Mexico), "joint stock company"(Ecuador, El Salvador and Uruguay), "corporation by shares"(Guatemala), "common stock company"(Peru) and "stock company"(Venezuela)). Uruguay and Venezuela report that such a company has to issue registered shares. In addition, the following legal forms are reported as admissible: "co-operative"(Argentina and Colombia), "mutual"(Argentina) and "mutual society"(Cuba and Mexico). In this respect, Uruguay reports that since 1994 the new establishment of mutual societies is not allowed.

All Latin-American countries report the existence of a minimum capital requirement. Regarding the amount of a minimum capital, four countries (Bolivia, Chile, Honduras and Panama) report a single uniform amount stipulated as applicable to all types of applicant. In Honduras where the minimum capital stipulated in the law is at present US$ 26.7, however, the actual amounts of initial capital are determined by taking into account other factors such as the type of operations to be carried out, average capital of existing insurance companies that have similar size, objectives, etc. The most recent insurance companies authorised in this country have initial capital of approximately US$ 1.0 million. In ten countries (Cuba, Ecuador, El Salvador, Guatemala, Mexico, 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.

As a measure to reflect inflation in the amount of a minimum capital, Peru reports that the amount of a minimum capital is updated quarterly by using the wholesale price index. Three countries (Chile, Ecuador and Mexico) report that the amount of a minimum capital is stipulated by using a kind of index which reflects inflation.

It is noteworthy that only six Latin-American countries (Cuba, El Salvador, Guatemala, Honduras, Nicaragua and Uruguay) report that they require the submission of a business plan. In Mexico, the submission of technical operation programs is required. This document should indicate technical and financial results projection for the first three years, including sales by lines of business, expected losses, reinsurance, investment return etc. and thus can be regarded as identical to a business plan required by other OECD Member countries. Three countries (Argentina, Brazil and Chile) report that, at least at this stage, no business plan is required. In Argentina, a draft law requires a business plan for the first three years. In Brazil, studies are carried out in order to introduce a business plan (it will be introduced by July 2001). Chile reports that any business plan or feasibility study is not required.

Five countries (Bolivia, Colombia, Ecuador, Panama and Peru) require the submission of a feasibility study instead of a business plan. The content of such a feasibility study is reported by Peru only. A feasibility study required by Peru covers market analysis, business analysis and financial forecasts.

In Venezuela, it is required to present a financial-economic study which should "justify the establishment of a new enterprise". It is not certain whether this implies the necessity to establish any market needs (in Venezuela, economic needs test is applied).

Even among six Latin-American countries requiring a business plan, the time horizon to be covered by such a plan is not uniform ("no time horizon stipulated by regulations, but in practice the first three to five years"(Cuba), "the first ten years"(El Salvador), "the first five years"(Guatemala and Honduras), "not specified"(Nicaragua), "at least the first three years"(Uruguay).

Likewise, among the five Latin-American countries requiring a feasibility study, the time horizon to be covered is not uniform ("a period of three years is considered as reasonable"(Colombia), "short, medium and long terms"(Panama), "no time horizon stipulated by regulations, but usually the first five years"(Peru) and no information in this respect is provided by Bolivia and Ecuador).

No Latin-American country refers directly to a "fit and proper" requirement. However, Peru reports that individuals or legal entities wishing to organise insurance companies must be morally suitable and financially solvent. Likewise, Uruguay reports that the suitability of directors and owners is required.

It should be worth mentioning that in Nicaragua an application must contain the name and address of an actuary (or actuaries) who will be in charge of developing the technical basis for insurance policies.

Four Latin-American countries (Argentina, Honduras, Nicaragua and Venezuela) report the application of an economic needs test. This issue will be dealt with under the next section which is specifically devoted to market access.

Venezuela reports the following nationality and residence requirements: (I) The majority of the board of directors, which must have at least five members, must be Venezuelans resident in Venezuela. (II) At least 50% of the executive employees (vice-presidents, directors, managers, assistant managers, etc.) must be Venezuelans resident in Venezuela. According to the WTO commitments of this country, these requirements are applicable for both direct insurance and reinsurance companies.

In respect of the WTO commitments, Brazil, Panama and Peru also mention similar restrictions related to nationality and/or residence. The content of respective WTO commitments is as follows:

> (I) Brazil - The WTO commitments of this country state that juridical persons must obey the proportionality of at least two Brazilians for three employees when engaged in the following activities: communications, land transportation, commercial stores in general, commercial offices, insurance, advertising and hotels and restaurants.
>
> (II) Panama - The WTO commitments of this country state as follows for all sectors covered by the General Agreement on Trade in Services (GATS). Not less than 90% of the ordinary workforce of any employer must consist of Panamanian workers, or foreigners with a Panamanian spouse or with ten years of residence in the country. Foreign specialised or technical personnel may not exceed 15% of the total workforce. Notwithstanding, a higher proportion of foreign specialised or technical personnel may be permitted for a fixed period of time, on previous recommendation of the respective Ministry and approval of the Ministry of Labour and Social Welfare.

(III) Peru – The WTO commitments of this country state as follows. Nationals of GATS member countries may not comprise more than 20% of the total number of staff employed by the enterprise, and their remuneration may not exceed 30% of the total pay roll (with some exceptions).

No Latin-American country reports the details of licensing procedure. Likewise, no Latin-American country reports how long on average it takes for a license to be granted (or refused) from the date on which a complete application has been received.

Market Access

Note: The analysis of this section is largely based on responses of Latin-American countries to the OECD questionnaire and bilateral consultation with them as well as the WTO commitments of these countries. For Table 9 "Licensing: Market Access", Yes (Y) or No (N) is in principle based on the responses of Latin-American countries. In particular in case there are discrepancies between the responses and the WTO commitments, however, the content of the WTO commitments is explained in Notes to this Table.

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 five Latin-American countries (Argentina, Costa Rica, Ecuador, El Salvador and Guatemala), the market access in the insurance field is completely restricted. Not only Costa Rica but also El Salvador exclude the insurance sector from the scope of its WTO commitments. Guatemala excludes direct insurance services from the scope of its WTO commitments. According to the WTO commitments of Ecuador, since 3 November 1995, no insurance and reinsurance companies may be established in this country. The detail in respect of the WTO commitments of Ecuador is as follows. Since 3 November 1995, for reasons of monetary policy and banking and financial prudential considerations, no new banks, finance companies, home savings and loan mutual associations or savings and loan co-operatives engaging in financial intermediation with the public, or insurance or reinsurance companies may be set up or established. This provision applies equally to national and foreign investors. According to the WTO commitments of Argentina, in this country the authorisation of establishment of new entities is suspended for both direct insurance and reinsurance services.

The application of an economic needs test, whereby applications might be rejected for example because of the excessive number of existing insurance companies even if other objective criteria have been fulfilled, is reported by and/or stated in the WTO commitments of six other countries (Bolivia, Chile, Colombia, Honduras, Nicaragua and Venezuela). Argentina reports that the suitability of an applicant's activity in the insurance market is a condition to grant a license. According to the WTO commitments of this country, however, in this country the authorisation of establishment of new entities is more fundamentally suspended for both direct insurance and reinsurance services (see above). The respective situations of these six countries are as follows.

(I) Bolivia – The WTO commitments of this country state that the decision on the right of establishment will take account of the economic advantages for the country and the specific needs of the domestic insurance market.

(II) Chile – The WTO commitments of this country state that a supplier of financial services operating through a commercial presence may be subject to evidence of economic need.

(III) Colombia – The WTO commitments of this country state that the government may make an authorisation for domestic and foreign financial entities to operate in Colombia subject to an economic needs test. For this purpose, factors such as the public interest and local and general economic and financial conditions are taken into account.

(IV) Honduras reports that, before granting a license, economic environment is taken into account. The content of its WTO commitments is as follows. The operation of insurance institutions is subject to approval by the Central Bank of Honduras, in accordance with general and local economic conditions and requirements. This approval will take into consideration, *inter alia*, a market survey showing that the current and future conditions of the insurance market permit the satisfactory operation of the company to be set up. This survey must be based on analysis of the principle economic and financial variables of the insurance system in Honduras or any other model demonstrating the economic feasibility of the institution to be set up.

(V) Nicaragua reports that (i) an application must justify the economic benefit to the country and/or insurance industry, and (ii) any other information may be requested in order to determine the economic need and financial success of an applicant. The content of its WTO commitments is as follows: Approval of foreign investment is subject to justification of economic necessity according to the following criteria: a) It corresponds to the objectives of stability and economic development. b) It respects Nicaragua's moral and cultural values. c) It is consistent with the conservation and protection of the environment.

(VI) Venezuela reports that (i) an economic needs test is one of the factors taken into account during the licensing procedure, and (ii) applications can be refused without any obligation on the part of the authority to indicate any reasons for such a refusal. The WTO commitments of this country state that the National Executive, in authorising the establishment of insurance and reinsurance companies, through non-discriminatory provisions, shall take into consideration, amongst other factors, general and local economic and financial conditions.

Four Latin-American countries (Cuba, Guatemala, Honduras and Mexico) directly restrict the establishment of wholly-owned subsidiaries, whereas in the majority of the other Latin-American countries it is indirectly restricted, being subject to the non-coverage by the WTO commitments (Costa Rica and El Salvador), the suspension of new authorisation (Argentina and Ecuador) or the application of an economic needs test (Bolivia, Chile, Colombia, Nicaragua and Venezuela). The situations of four countries (Cuba, Guatemala, Honduras and Mexico) which directly restrict the establishment of wholly-owned subsidiaries are as follows:

(I) Cuba – The WTO commitments of this country state that, as a general rule, foreign investment in the capital of joint enterprises can be up to 49% of the stock. However, in certain cases the competent bodies may authorise a higher level of investment.

(II) Guatemala – According to the Commerce Code of this country, no one can hold 100% of equity capital. This restriction is applied to both domestic and foreign investors. A foreign insurer can hold, say, 99.99% of equity capital of a joint venture, although direct insurance services are outside the scope of the WTO commitments of this country.

(III) Honduras – The WTO commitments of this country state that at least 60% of share capital must belong to Honduran nationals (the establishment of joint ventures with foreign capital of up to 40% is subject to the application of an economic needs test).

(IV) Mexico – In this country, "subsidiaries" is understood as companies with foreign capital of more than 49%. At present, only NAFTA-based institutions can establish subsidiaries without any market share quotas restriction (since the beginning of 2000, market share quotas restriction has no longer been applied). It is expected that in a short time the Congress will approve the extension of NAFTA benefits to all OECD Member countries. For the remaining institutions which are neither NAFTA-based nor OECD-based, the limit of participation will remain 49%.

Nine Latin-American countries (Brazil, Chile, Colombia, El Salvador, Guatemala, Mexico, Nicaragua, Uruguay and Venezuela) directly restrict the establishment of branches by foreign insurers. El Salvador reports that since 1997 the new establishment of branches of foreign insurers is not allowed. In the majority of the other nine Latin-American countries, the establishment of branches by foreign insurers is indirectly restricted, being subject to the existence of the State monopoly (Costa Rica), the suspension of new authorisation (Argentina and Ecuador) or the application of an economic needs test (Bolivia and Honduras).

It should be noted that, in the WTO commitments of Ecuador, the establishment of a representative office is specifically prohibited, in addition to the prohibition of establishment of new insurance or reinsurance companies which has been applied since 3 November 1995.

III. Solvency Supervision

Insurance Accounting Principles

13 Latin-American countries (Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela) report the adoption of specific insurance accounting principles, while five countries (Bolivia, Chile, Cuba, Honduras and Panama) report no adoption of such principles.

Of countries reporting the adoption of specific insurance accounting principles, in principle, five countries (Brazil, Costa Rica, Guatemala, Mexico and Nicaragua) adopt the Generally Accepted Accounting Standards (GAAP), three countries (Ecuador, El Salvador and Paraguay) adopt the International Accounting Standards (IAS), and Peru adopts both the GAAP and the IAS. Ecuador has developed 17 Ecuadorian Accounting Standards, based on the IAS. El Salvador has adopted the IAS since March 2000. In Paraguay, some projects are carried out in order to update accounting system.

As for the five countries reporting no adoption of such principles, accounting practice is based on the GAAP in Chile and Panama, and is based on both the GAAP and the IAS in Bolivia. In Bolivia, a new project will be launched to introduce specific accounting principles for insurance companies, which will be submitted for consideration and approval to the Professional Accounting Association of Bolivia. In Honduras, studies are at present carried out in order to adopt the IAS and other guidelines suggested by the International Accounting Standard Committee (IASC).

Three Latin-American countries (Argentina, Uruguay and Venezuela) report that the presentation or form of financial statements is stipulated, and Colombia reports that the general framework of accounting procedures is stipulated.

Reporting

Note: For Costa Rica, which has at present no insurance supervisory authority, the analysis is reserved in respect of "reporting" and "on-site inspection" (the State monopoly, the National Insurance Institute, has to submit detailed information to the Central Accounting Office, but not to the insurance supervisory body). Accordingly, for these two sections, "all Latin-American countries" means "all 18 Latin-American countries except for Costa Rica".

In all Latin-American countries, insurance companies are required to submit periodically their financial documents to the insurance supervisory authority.

The periodicity of reporting in Latin-American countries is relatively high. The periodicity of reporting can be classified into the following frequencies: (I) "annual return, complemented by semi-annual, quarterly and monthly return"(Brazil, Peru and Venezuela), (II) "annual return, complemented by quarterly and monthly return"(Argentina, Bolivia, Honduras, Nicaragua and Uruguay), (III) "annual return, complemented by monthly return"(Ecuador, El Salvador and Guatemala), (IV) "annual return, complemented by quarterly return"(Chile, Colombia, Cuba, Mexico and Paraguay), and (V) "annual return only"(Panama). Guatemala reports that the supervisory authority can request, at any time, information considered as necessary. It is understood that the supervisory authorities in other Latin-American countries also have the power to order insurance companies to submit any relevant documents whenever necessary.

It should be noted that, in Panama, although only the submission of annual return is required, the supervisory authority visits each insurance company ten times a year and each visit has a specific objective such as the revision of solvency margin (four times a year), the revision of reinsurance contracts, the revision of reserves and investments, the revision of financial statements of insurers and reinsurers, the revision of compliance of reinsurance contracts in bonds branch, the revision of insurance brokers and the revision of premiums overdue for more than 90 days (see also "On-site Inspection"). In addition, insurance companies have to compile statistical claims data required by the supervisory body and submit it every month.

In general, only annual return is audited (five countries (Bolivia, Chile, Nicaragua, Uruguay and Venezuela) confirm it). In respect of the involvement of auditors in the process of reporting, however, the following exceptions are reported. In Argentina, external auditors have to prepare quarterly special reports related to "minimum capital rules" and monthly special reports related to "coverage of enforceable commitment and outstanding claims", which have to be submitted to the supervisory authority. In Brazil, quarterly and monthly return has to be audited. In Colombia, auditors check quarterly statements. In Peru, independent auditors have to prepare reports on the evaluation of the internal control system biannually, which have to be submitted to the supervisory authority (see also "Auditor").

The content of a semi-annual report is reported to be as follows: "balances of current accounts with reinsurance companies and co-insurers, commissions paid to insurance brokers, payment of fees to adjusters and/or insurance specialists, independent auditors' report on the evaluation of the internal control system, and report on the evaluation of the annual work plan of the internal audit unit" (in Peru) and "financial statements, including accounting attachments and statistical attachments" (in Venezuela),

The content of a quarterly report is reported to be as follows: "minimum capital report, actuary report, and auditor report" (in Argentina), "financial statements, technical evaluation of capital, statistics for underwriting and claims for the calculation of solvency margin, and actuarial report of mathematical reserve in life insurance" (in Bolivia), "balance sheet, income statement, explicative notes and

attachments, and cash flow statement" (in Chile), "balance sheet, results statement, and some other information" (in Colombia), "financial analysis" (in Cuba), "annexes to monthly financial reports" (in Honduras), "integral information system, from which financial statements and investment report are obtained" (in Mexico), "detailed list of investments, basis for calculation of technical provisions, and current lists of shareholders and members of the board of directors" (in Nicaragua), "statistical data on premiums, cessions, claims, etc. and data on solvency margin and guarantee fund" (in Paraguay), "consolidated financial statements, evaluation of the implementation of the investment plan, reinsurance transactions, statistics on reinsurance transactions with foreign markets, management and identification mechanisms of consolidated risk, etc." (in Peru), "balance sheet and additional information" (in Uruguay) and "list on admitted assets and technical reserves" (in Venezuela).

The content of a monthly report is reported to be as follows: "coverage of enforceable commitment and outstanding claims" (in Argentina), "financial statements, underwriting information and claims information"(in Bolivia), "balance sheet and technical-financial endorsements"(in Ecuador), "financial statements, calculation of capital held and investments data"(in El Salvador), "balance sheet and statistical data including investment breakdown" (in Guatemala), "financial reports" (in Honduras), "detailed financial information, all accounting and underwriting information, etc."(in Nicaragua) and "balance sheet, statement of profit and loss, solvency margin, etc."(in Peru), "liquidity ratio" (in Uruguay) and "information related to asset, liability, revenue and expense" (in Venezuela).

On-site Inspection

In all Latin-American countries, on-site inspection is carried out.

Regarding the periodicity of on-site inspection, Paraguay reports that on-site inspection is conducted, depending on the solvency of insurance companies (not on a periodical basis).

Six countries (Brazil, Chile, Honduras, Mexico, Peru and Uruguay) report that the timing and frequency of on-site inspection depends in particular on certain situations, although some degree of periodicity is envisaged. In Brazil, on-site inspection is usually carried out on a case-by-case basis, but the supervisory authority intends to cover each insurance company once every three years. In Chile, on-site inspection is planned annually in relation with some special matters such as technical reserves and investments. Additionally a special on-site inspection can be carried out, if the supervisory authority recognises, or has doubt about, a specific problem in an insurance company. Furthermore, the supervisory authority may order an insurance company to contract for an additional external audit, if it discovers any important irregularities. In Honduras, in addition to on-site general inspection, which is conducted once a year, on-site special inspection is carried out when it is necessary. In Mexico, there are three kinds of on-site inspection: ordinary, special and investigation. Ordinary on-site inspection is carried out according to the annual program approved by the Commission President. This inspection is carried out on average every two years. Special on-site inspection is conducted when in the opinion of the Commission President it is necessary to examine a special situation and, if necessary, correct it. Investigation has an objective to solve a specific situation. In Peru, on-site inspection is carried out at least once a year and whenever it is necessary. In Uruguay, on-site inspection is carried out once every three years. Non-programmed inspection can be carried out when there is any trouble.

Three countries (Ecuador, El Salvador and Nicaragua) mention periodical on-site inspection only ("at least once a year" (in Ecuador), "once a year" (in El Salvador) and "an annual on-site inspection is required by the law" (in Nicaragua)). It is understood, however, that in these countries the supervisory authority also has the power to conduct on-site inspection whenever it deems it is necessary.

Only Panama reports a periodical "visit" by the supervisory authority (ten visits a year) with a specific objective each time (see also "Reporting").

Six countries (Argentina, Bolivia, Colombia, Cuba, Guatemala and Venezuela) have provided no information related to the periodicity of on-site inspection.

Besides Chile, where the supervisory authority may order insurance companies to contract for an additional external audit, Peru also reports that auditors can conduct on-site inspection. In Peru, the supervisory authority carries out on-site inspection either directly or through the auditing firms it may authorise.

Solvency Requirements

With the two exceptions of Costa Rica and Honduras, all Latin-American countries have adopted solvency requirements for insurance companies. In this respect, Honduras reports that, although there are at present no solvency requirements, the new draft law, which is subject to the approval of the National Congress, will introduce solvency margin and the minimum capital adequacy. In Brazil, solvency rules are applied only for non-life insurance companies or non-life operation of composite insurance companies.

Four countries (Argentina, Guatemala, Paraguay and Uruguay) report that their solvency requirements are based on or similar to those of the EU Directives. This means that the minimum capital requirement, called minimum solvency margin, is based on the greater amount of gross written premiums or average gross claims incurred in non-life insurance, and mathematical provisions and sums at risk in life insurance. The solvency rules of Nicaragua are also similar to those of the EU Directives.

Colombia reports that in this country the solvency margin is stipulated by taking into account both the EU Directives and the Basle Committee rules.

Some of the other countries report their respective solvency requirements which are based on a certain level of capital and therefore similar to the concept of the EU Directives. In Brazil, where solvency rules are applied only for non-life insurance, the concept of the "net worth" is applied. The net worth has to be adjusted, for example, by deducting the assets which do not represent available values (such as prepaid expenses). The net worth adjusted must be higher than 20% of the average premiums retained for the last three years or 33% of the average losses retained for the last five years. Another index to be used analyses the capital structure [(current liability + long-term liability – loss reserves)/net worth]. Besides, the supervisory authority applies 21 indexes, which serve as an early warning system. The majority of the indexes are based on the IRIS System, with some modifications introduced by the supervisory authority. In Chile, insurance companies must maintain "risk equity", which is the highest result after taking into account "debt ratio", 'solvency margin" and "minimum capital". Solvency margin is determined by taking into account the amount of premium written, the average claim costs and the reinsurance. In Ecuador, insurance companies must meet solvency margins determined as follows: (I) net premiums received in the preceding 12 months may not be more than six times fixed capital; and b) fixed capital may not be less than one-sixth of total assets less deferred liabilities. In El Salvador, insurance companies must comply with the minimum capital requirements. The minimum capital is defined as the largest amount of: (I) the minimum capital necessary to keep the total debt/net capital ratio lower than 5, (II) the resulting amount of applying product-specific solvency requirements, and (III) the minimum capital as one of licensing requirements. In Mexico, the solvency margin is determined by the Assets Counted Towards

Minimum Guarantee Capital (ACTMGC), minus the Minimum Guarantee Capital (MGC) required. The ACTMGC corresponds to the assets capable of covering the MGC required. The MGC is equal to the Gross Solvency Requirement (GSR) minus Deductions. Deductions are mainly determined by the balances of the equalisation reserve and the catastrophic risk reserve. The GSR is equal to the capital required for probable deviations in the retained losses and/or adverse fluctuations in the price of those assets in which the technical reserves are invested. Considering that the reinsurers' quality may affect the insurers' solvency, the regulation establishes a "reinsurers' quality weight" which applies to the GSR on every line.

In most Latin-American countries, the solvency margin can be monitored by the supervisory authority either on a monthly or quarterly basis (see also "Reporting").

Technical Provisions

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 Honduras, the draft law will stipulate the calculation method of technical provisions in the following way. In the case of provisions for unearned premiums, 45% of premium income will have to be set aside. In the case of mathematical provisions, an actuarial note will determine it.

In the case of life business, "mathematical provisions" are referred to by most Latin-American countries. In the case of non-life business, "provisions for unearned premiums" and "provisions for outstanding claims", including "incurred but not reported (IBNR)", are referred to by most countries. Regarding the calculation method of provisions for unearned premiums, the following methods are reported: "in principle 1/8 method" (Colombia), "in principle 1/24 method" (Ecuador), "1/24 method" (El Salvador) and "daily pro rata basis or 1/24 method" (Mexico).

Only Peru refers to "provisions for unexpired risks", which are constituted in case provisions for unearned premiums are insufficient.

The following nine Latin-American countries report "equalisation reserve" or provisions similar to "equalisation reserve": "additional to unearned premium reserve" (provisions for risks whose magnitude is little known, highly fluctuating, cyclical or catastrophic) (Chile), "claims deviation reserve" (for earthquake insurance) (Colombia), "contingency reserve" (Costa Rica), "technical provisions related to catastrophes obligations" (Cuba), "reserves for exceptional losses and disasters" (Ecuador), "equalisation reserve, catastrophic risk (for earthquake) and special contingency reserve (for agriculture, cattle, travellers' insurance)" (Mexico), "catastrophic reserves" (Nicaragua), "reserves for catastrophes and uncertain losses" (Peru) and "contingency reserve" (Venezuela).

Investment Regulation

(a) Evaluation Method of Investments

13 Latin-American countries (Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru, Uruguay and Venezuela) report the existence of insurance legislation concerning the evaluation method of investments. Three Latin-American countries (Costa Rica, Cuba and Honduras) report the non-existence of such insurance legislation.

Five countries (Brazil, Nicaragua, Panama, Peru and Venezuela) use in principle the lower of cost or market value. Four countries (Chile, Colombia, Mexico and Uruguay) use in principle market value. In Argentina, except for retirement and life insurance, net sales value, which takes into account sales costs, is used. Guatemala uses historic valuation.

In El Salvador, the law allows the freedom to choose market value, acquisition cost or any other internationally accepted valuation.

(b) Content of Investment Regulation

In all Latin American countries, except for Cuba, there exist legal provisions concerning investments by insurance companies.

Such provisions stipulate most typically admissible investments and a set of maximum (and/or minimum) limits on certain categories of investments (in Brazil, El Salvador, Guatemala, Nicaragua, Peru, Uruguay and Venezuela).

Regarding the basis of calculation of maximum (and/or minimum) limits, the following modalities are reported: "technical provisions" (Brazil), "risk equity and technical provisions" (Chile), "technical reserves, paid-up capital and statutory reserve" (in Ecuador), "technical reserves and minimum capital required" (El Salvador), "total assets" (Guatemala) and "mathematical provisions" (Venezuela). In this respect, it should be noted that in Panama a list of admissible investments is applicable to 75% of technical provisions.

Three countries (Guatemala, Mexico and Venezuela) report the existence of minimum limits. 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 Mexico, in respect of technical provisions, minimum short-term investments limits are stipulated. For example, 100% of provisions for outstanding claims, at least 75% of IBNR, at least 50% of provisions for unearned premiums and at least 30% of mathematical provisions have to be invested in short-term investments. 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.

Peru reports the existence of maturity matching requirement, and Uruguay reports the existence of currency matching requirement.

Argentina reports a unique custody system. In this country, investment instruments of insurers must be deposited in the custody of authorised organisations, which must be 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 so that the Superintendence can supervise the movements and possession of investments and detect any irregularities on the part of insurers. Investments not kept in such a custody cannot be regarded as assets supporting the minimum capital and the commitments with the insured.

In some Latin-American countries, the proportional weight of "other investments" (investments other than real estate, shares, bonds and loans) in total investments is very high, in particular compared with that of four big insurance markets in the OECD (see Table 5 and Table 6). 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 regulation.

(c) Portfolio Investment Abroad

In two Latin-American countries (Cuba and Guatemala), portfolio investments abroad are not allowed. In Honduras, portfolio investments abroad are in principle prohibited, unless the authorisation of the Central Bank is obtained.

In 15 other Latin-American countries, portfolio investments abroad are allowed, subject to the following limitations. In Costa Rica, portfolio investments abroad are allowed, although there are no such investments and there is no formal regulation. In Mexico, portfolio investments abroad are limited to securities denominated in foreign currency registered in the special section of the National Register of Securities and Intermediaries, and deposits and securities issued in foreign currency payable abroad by Mexican financial entities or foreign financial entities affiliated with these. Other securities issued by non-resident financial institutions may be authorised by the Ministry of Finance and Public Credit. In Nicaragua, foreign investments are admissible, if they are of such investment grade to fulfil the requirements applied to the international reserve of this country. In Paraguay, the permission of the insurance supervisory authority has to be obtained in each case. In Venezuela, such investments are allowed without any maximum limits. However, such investments are non-admitted assets and therefore not valid for technical provisions coverage. In 10 other Latin-American countries, portfolio investments abroad are allowed, subject to the following limitation: “up to 30% of the minimum capital” (Argentina), “up to 50% of investment assets” (Bolivia), “the maximum limit depends on the liabilities in foreign currencies owed by each insurance company” (Brazil), “the maximum proportional limits of the total of risk equity and technical reserves depend on the type of business (life or non-life) and the type of investments (non-residential urban real estate or others)” (Chile), “up to a certain limit, but this limit is not yet stipulated” (Colombia), “up to 10% of technical reserves, paid-up capital and statutory reserve” (Ecuador), “up to 20% of technical reserves and minimum capital required” (El Salvador), “up to 100% minimum capital, up to 50% of capital in excess of minimum capital, and up to 25% of technical reserves” (Panama), “up to 30% of technical reserves” (Peru) and “investment grade rating or better, up to 5% of minimum capital, technical provisions and insurance liabilities, and 20% of mathematical reserves (exception: investments covering technical provisions and insurance liabilities of pension insurance policies should be invested within a country)” (Uruguay).

Reinsurance

(a) Regulation and Supervision on Reinsurance Specialists

In nine Latin-American countries (Bolivia, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru and Uruguay), there are no reinsurance specialists, which are defined as legal entities exclusively underwriting reinsurance. In Cuba, although there are two branches of foreign reinsurance specialists, at present they do not carry out operations. Of these ten countries, three countries (Nicaragua, Peru and Uruguay) report that, if there were reinsurance specialists, they would be in principle subject to the same regulation and supervision as direct insurers.

In all of the eight Latin-American countries where reinsurance specialists exist (Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Panama and Venezuela), reinsurance specialists are regulated or

supervised. Two countries (Chile and Ecuador) report that reinsurance specialists are in principle subject to the same regulation and supervision as direct insurers. Three countries (Colombia, Panama and Venezuela) report that reinsurance specialists have to be licensed.

In Brazil, the opening-up of its reinsurance market should have been carried out on 25 July 2000 when the auction of the Brasil Resseguros S.A. (IRB) was scheduled. The whole process has been interrupted by a temporary decision taken by a singular member of the Supreme Court. This suspends the effectiveness of a relevant law until a final decision is taken by all members of the Supreme Court. At present the IRB is the only reinsurer allowed to be established in this country, and basically monopolises 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 of the reinsurance market, reinsurance specialists can be established with the special authorisation of the government. They will be subject to special rules on capital, retention, assets, technical provisions, solvency margin, administrators and financial reports. In general, these rules will be similar to the rules applied to direct insurers (see also "(c) Cross-border Reinsurance Transactions" and "(d) Domestic Retention Requirements").

(b) Regulation and Supervision on Reinsurance Arrangements

Three Latin-American countries (Chile, Costa Rica and Cuba) report the non-existence of regulation and supervision on reinsurance arrangements of direct insurers. In Costa Rica, insurance business is monopolised by the State entity, and this State monopoly concludes reinsurance contracts with foreign reinsurers which are not established in this country.

All the other 14 Latin-American countries report the existence of the regulation or supervision on reinsurance arrangements of direct insurers.

It should be noted that, in some Latin-American countries (Bolivia, Guatemala, Honduras and Nicaragua), the maximum retention limits are stipulated. The examples in this respect are as follows. In Bolivia, the maximum retention limit is 15% of the solvency margin of each insurance company. In Guatemala, the following maximum retention limits are stipulated: fire and allied lines = 8%, marine cargo = 5%, auto = 2% and others = 3%. Insurance companies can retain in excess of these percentages but they have to cover it by an excess of loss treaty. This limitation is explained to be basically for prudential reasons. The insurance law reform is at present being discussed in this country. According to this reform, no maximum retention limits will be imposed. Each company will be free to set out limits on the basis of its technical goals. In Honduras, there are the following maximum retention limits:45% in non-life and guarantees and 40% in group life. In Nicaragua, the following maximum limits are stipulated by line of business: (I) For property and casualty companies operating for three years or less, the maximum retention is 5% of paid-in capital and capital reserves, and for companies operating for more than three years, the maximum retention is 5% of paid-in capital and capital reserves plus 10% of the average yearly profit for the previous three years. (II) For life companies operating for three years or less, the maximum retention is 1.5% of paid-in capital and capital reserves, and for companies operating for more than three years, the maximum retention is 1.5% of paid-in capital and capital reserves plus 5% of the average yearly profit for the previous three years. As reasons for imposing the maximum retention limits, this country mentions the relatively small size of capital requirements and the imminent exposure to catastrophic losses in the region.

In Argentina, the supervisory authority observes every retention which exceeds 40% of the surplus in "the coverage of enforceable commitment and outstanding claims", or 15% of the net capital, although no maximum retention limits are stipulated. It is explained that the purpose of such supervision is to

have objective parameters to analyse uniformly the different retention/amount withheld by the insurance companies, and to ensure the adequate relationship between the retention level of insurance companies and their capital and financial situation. Similar supervision is also conducted in El Salvador. In this country, insurance companies have to establish maximum and minimum retention limits which will be applied during a specific year, taking into account the volume of business, the amount of resources and their experience in respect of claims handling. They have to inform the supervisory authority of their respective limits. Peru also reports that the supervisory authority supervises the acceptance or cession policy of insurance companies in order to ensure that their retention levels fit their corporate or equity capacity.

In Brazil, after the opening-up of its reinsurance market, insurance companies will have to retain 50% of their whole operations (see also "(c) Cross-border Reinsurance Transactions" and "(d) Domestic Retention Requirements"). Uruguay reports that, for solvency margin requirements, the maximum cession accepted is 50%.

The following other modalities of regulation or supervision are reported. In Colombia, insurance companies have to submit annually information on the main characteristic of treaties and a list of reinsurers in order to verify their registration. In Honduras, insurance companies must conclude reinsurance contracts with reinsurers which have the ratings of BBB+ or better. Insurance companies must on a monthly basis inform the National Commission of Banking and Insurance of reinsurers with whom they have concluded contracts. In Nicaragua, insurance companies have to provide copies of all reinsurance contracts and financial statements of reinsurers in order to review the quality of the reinsurers. This process is conducted in a very informal way, because there are no minimum standards stipulated for admitted reinsurers. In Venezuela, insurance and reinsurance companies have to submit to the supervisory authority, on an annual basis, a summary of economic characteristics of reinsurance and retrocession contracts. The Superintendence will study the conditions of the reinsurance contracts. In case any of them are considered as inappropriate, insurance companies are required to explain economic and technical reasons to conclude such contracts. If the explanation does not fully justify the existence of such contracts, the supervisory authority will require the adoption of appropriate measures to correct the situations, and may apply penalties stipulated in the law. In Brazil, after the opening-up of its reinsurance market, the supervisory authority will supervise reinsurance contracts afterwards based on information provided by insurance companies. In case there is equity participation of 30% or more of the voting capital between an insurer and a reinsurer, however, the supervisory authority will supervise reinsurance contracts beforehand.

(c) Cross-border Reinsurance Transactions

All Latin-American countries allow cross-border reinsurance transactions (regarding the important limitation in this respect, see "(d) Domestic Retention Requirements").

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. Of these nine countries, four countries (Chile, Colombia, El Salvador and Guatemala) report that foreign reinsures have to be registered with the insurance supervisory body. Argentina classifies foreign reinsurers into two categories. Foreign reinsurers not registered with the supervisory body have to be intermediated by a registered reinsurance broker and have to have an adequate rating by an international rating agency. Foreign reinsurers registered with the supervisory body have to present to the supervisory body the following documents every year: (I) latest balance sheet, (II) an independent auditor's report or a report by the supervisory authority of the country of origin, where the equity should not be inferior to US$ 30 000 000 and (III) a statement by an attorney, where the remaining

conditions required are expressed. Bolivia simply reports that all foreign reinsurers have to be registered. Paraguay reports that local insurers have to register foreign reinsurers at the supervisory body before the transactions. Peru reports that foreign reinsurers have to be registered with the insurance supervisory body or rated as non-vulnerable by at least one internationally well-known rating agency. Venezuela reports that, if cross-border reinsurance transactions are concluded with reinsurers not registered with the supervisory body, the ceding companies are not allowed to deduct, from the technical reserves, the portion corresponding to the ceded risk. In Brazil, after the opening-up of its reinsurance market, foreign reinsurers will be classified into two categories: admitted reinsurers and occasional reinsurers. Admitted reinsurers will be registered with the supervisory body, with some control of the supervisory body, while occasional reinsurers will be subject to control through direct insurance companies only. In the case of occasional reinsurers, direct insurance companies will have to certify that reinsurers meet the minimum requirements such as a minimum net worth of US$ 100 000 000, a minimum rating stated by the supervisory body and five years' operation.

The following requirements for foreign reinsurers to be registered are reported; "a minimum net worth of US$ 85 000 000, a minimum rating stated by the supervisory body, three years' operation and a bank account with a minimum amount of US$ 5 000 000 increasing according to its operation as collateral funds for its operation in the country" (Brazil) and "a minimum capital and a minimum rating (BBB- (Standard & Poor's), B+ (A.M.Best), BBB- (Duff and Phelps) and Baa3 (Moody's)" (Colombia). Besides, El Salvador reports that, to be registered, foreign reinsurers must provide information given by their home country supervisory authority about their legal status, information about its rating given by an internationally known rating agency, financial information for the last three years and information about the type of reinsurance they are allowed to provide in their home country.

As an important requirement for cross-border reinsurance transactions, Colombia reports that reserves on premium ceded to foreign reinsurers have to be constituted so that they can contribute to the liquidity of local insurers in the case of claims.

(d) Domestic Retention Requirements

Two Latin-American countries (Brazil and El Salvador) report the existence of domestic retention requirements. In Brazil, the Brazil Resseguros S.A. (IRB) basically monopolises reinsurance operation in this country, although direct insurers can contract abroad in specific cases with the special permission of the supervisory body. Even after the opening-up 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 El Salvador, there are retention and cession requirements applied in the case of catastrophic earthquakes (see also "(c) Cross-border Reinsurance Transactions").

Supervision on Policy Conditions and Premium Rates

Note: For Costa Rica, where there is at present no insurance supervisory authority and insurance business is monopolised by the State entity, the analysis is reserved in respect of "supervision on policy conditions and premium rates" and "claims data collection on a broader basis". Accordingly,

for these two sections, "all Latin-American countries" means "all 18 Latin-American countries except for Costa Rica".

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 Honduras, together with premium rates, policy conditions are subject to the prior approval of the Secretariat of Economy and Treasury, which hears the opinion of the National Commission of Banking and Insurance (the insurance supervisory authority). In three countries (Cuba, Peru and Uruguay), policy conditions are subject to "file and use". In this respect, Uruguay reports that, if there is something incongruous or unacceptable, the supervisory body requires insurance companies to make the necessary modifications. In Ecuador, policy conditions are subject to prior approval or "file and use".

As for other countries, the following modalities of supervision on policy conditions are reported. In Bolivia, policy conditions are supervised through regular inspection. In Chile, policy conditions must be registered with the insurance supervisory body (in non-life, policy conditions are not necessarily registered if the insured and beneficiaries are legal persons and the annual premium is higher than U.F.200 (approximately US$ 5,870 on 31 May 2000)). Nevertheless the supervisory body reviews whether the text and wordings do not lead to error or confusion, or breach the law. Once policy conditions are registered, any other insurance companies can use them without any consultation with the 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 Mexico, new policy conditions have to be registered with the supervisory authority at the same time that insurance companies start to use them. If within 30 days the supervisory authority regards them as inappropriate on technical grounds, they have to be recalled from the market.

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. Of these five countries, three countries (Bolivia, Paraguay and Uruguay) report that the determination of premium rates is free, except for life insurance which is based on a technical basis. Chile reports that insurance companies can freely fix premium rates without any intervention by the supervisory authority. Panama reports that premium rates are not subject to any prior approval, "file and use" or "use or file", although they must comply with conditions stipulated by the law.

In 12 countries, premium rates are subject to supervision. In four countries (Argentina, Honduras, Nicaragua and Venezuela), premium rates are subject to prior approval. As mentioned before, in Honduras, together with policy conditions, premium rates are subject to the prior approval of the Secretariat of Economy and Treasury, which hears the opinion of the insurance supervisory authority. In two countries (Cuba and Peru), premium rates are subject to "file and use". In Ecuador, premium rates are subject to prior approval or "file and use".

As for other countries, the following modalities of supervision on premium rates are reported. In Colombia, no prior approval is required. However, the supervisory body can require insurance companies at any moment to indicate premium rates in order to verify the compliance with actuarial and statistical principles. In El Salvador, premium rates are reviewed only to ensure that they can

cover future claims. The rest is left to the market. In Guatemala, for non-life insurance, insurance companies can freely set premium rates above the minimum premium rates authorised by the supervisory body. 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. In Mexico, insurance companies must submit technical information to the insurance supervisory authority at the same time that they start to use new premium rates. The authority does not supervise the amount of premiums itself, but it supervises the sufficiency of reserves which such premium rates presuppose.

Regarding the treatment of compulsory classes of insurance, two countries (Brazil and Colombia) report that, for compulsory classes of insurance, policy conditions and premium rates are determined by the supervisory authority (see also "Compulsory Insurance").

Claims Data Collection on a Broader Basis

Nine Latin-American countries (Argentina, Bolivia, Brazil, Chile, Guatemala, Honduras, Mexico, Panama and Uruguay) report the existence of a single body which collects claims data of individual insurers so that claims data of individual companies can be shared among a broader group of insurance companies and thus adequate premium rates can be calculated on a broader statistical basis. In all of these countries, the supervisory authorities themselves are involved in this process. In Chile and Mexico, besides the supervisory authority, an insurance association collects such data (in Chile, the supervisory authority collects data on life annuities, and the Chilean Insurance Association collects data on non-life insurance).

In respect of the calculation of premium rates, however, it should be pointed out that the overall data such as gross claims and loss ratios cannot be regarded as sufficient. For most of nine Latin-American countries which report the existence of such a single body, it is not clear whether claims data related to loss frequency and loss severity are in fact collected. In this respect, Argentina reports that, although there is no private institution that compiles sufficient data, there are some actuarial research developments that have begun to collect statistical information on specific insurance fields. Peru reports that, although insurance companies submit claims information to the supervisory authority on a monthly basis, there is at present no requirement for information concerning the frequency and severity of such losses. Likewise, Uruguay reports that, although claims data such as loss frequency and loss severity are available for pension insurance, such data are not available for other classes of insurance.

Actuary

In ten Latin-American countries (Chile, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru and Uruguay), the appointment of an actuary is not obligatory. Of these countries, Cuba reports that, although it is not obligatory for insurance companies to appoint an actuary, insurance companies are not allowed to carry out operations which are not based on actuarial calculation. Three countries (Chile, Costa Rica and Peru) report that, although it is not obligatory for insurance companies to appoint an actuary, insurance companies actually use an actuary (in Chile, it is common practice that life insurance companies work with an actuary, and in Peru, some life and non-life insurance companies use an actuary).

In eight Latin-American countries (Argentina, Bolivia, Brazil, Colombia, El Salvador, Nicaragua, Panama and Venezuela), the appointment of an actuary is obligatory. Of these eight countries, four countries (Bolivia, Colombia, El Salvador and Panama) report that such obligation applies to life

insurance companies (or operation) only. Nicaragua reports that, for the licensing process of an insurance company, the name of an actuary has to be specified.

Three countries (Argentina, Bolivia and Venezuela) report the existence of a registration system of actuaries (in Argentina and Venezuela they have to be registered with the insurance supervisory body, and in Bolivia they have to be registered with the national commerce registry).

Three countries (Chile, Colombia and Nicaragua) report the non-existence of minimum conditions to be an actuary. Other countries report the following minimum conditions to be an actuary: experience (Argentina, Bolivia and Costa Rica), expertise or knowledge (Costa Rica), professional title or university degree (Bolivia, Brazil, Costa Rica and Venezuela), membership of a professional association (Argentina and Costa Rica), non-existence of any incapacity stipulated by the law (Bolivia), non-existence of any direct or indirect interests in an insurance company for which an actuary provides professional services (Panama and Venezuela), etc.

The following statutory duties of an actuary are reported: certifying the legality and sufficiency of or calculating technical reserves (Argentina, Bolivia, Brazil, Colombia, El Salvador, Panama and Venezuela), calculating premium rates (Bolivia, Brazil, Colombia and Venezuela), developing technical content of products or justifying premium rates, loss expectancy, technical provisions etc. for new products (El Salvador and Nicaragua), signing or preparing actuarial papers (Brazil, El Salvador and Venezuela), singing the balance sheet (Brazil) and providing technical support (Bolivia).

Regarding the relationship between an actuary and the insurance supervisory body, Bolivia reports that actuaries must provide the supervisory body with information on the calculation of mathematical reserves of insurance companies operating long-term life insurance. As mentioned before, in Argentina and Venezuela, actuaries have to be registered with the insurance supervisory body. Brazil reports that the insurance supervisory authority has established the Actuarial Committee where members of insurance companies and of a professional body of actuaries discuss improvements in legislation. Chile also reports that, on some special occasions, the supervisory authority has meetings with actuaries, for example in order to analyse a new mortality table for life annuities.

Auditor

In all Latin-American countries, the appointment of an auditor is obligatory.

Four countries (El Salvador, Honduras, Nicaragua and Peru) report that insurance companies have to appoint both external and internal auditors. Honduras and Nicaragua explain that internal auditors are employees of insurance companies and supervise day-to-day-operations. In El Salvador and Peru, insurance companies must form the internal audit unit, which reports to the board of directors. The main duties of the internal audit unit are very extensive, including in particular the evaluation of internal control system and the evaluation of compliance with legal provisions applicable to insurance companies. There is a formal relationship between the internal audit unit and the supervisory body. In El Salvador, the internal audit unit must elaborate an annual audit report to be approved by the board of directors, a copy of which must be sent to the insurance supervisory body and the external auditor. The report must meet requirements set by the regulation, including the evaluation of internal control system, the identification of relevant risk areas and a schedule of activities. In addition, the internal audit unit must send to the supervisory authority quarterly reports detailing how the schedule of activities is performed, the type of examinations performed, the main findings, recommended measurers and their follow-up. If the chief of the internal audit unit is fired, it must be communicated to the supervisory authority. In Peru, the internal audit unit must report to the supervisory body

immediately, once the investigations of any significant events have been completed. In these two countries, the minimum requirements to be the chief of the internal audit unit (El Salvador) and an internal auditor (Peru) are stipulated. These requirements are similar to the minimum requirements applicable to external auditors.

Ten Latin-American countries (Argentina, Bolivia, Brazil, Chile, Colombia, El Salvador, Honduras, Peru, Uruguay and Venezuela) report the existence of a registration system of (external) auditors. Of these ten countries, in eight countries (Argentina, Bolivia, Chile, Colombia, El Salvador, Honduras, Uruguay and Venezuela), auditors have to be registered with the insurance supervisory body (in Argentina they have to be registered with the Professional Council of Economic Science as well, and in El Salvador they also have to be registered with the National Auditing and Accounting Board). In Brazil, auditors have to be registered with the Brazilian Federal Securities and Exchange Commission and their own Council, and in Peru they have to be registered with the Auditing Firms Unique Registry.

Nicaragua reports the non-existence of minimum conditions to be an (external) auditor (however, preferably CPA or Certified Auditor). Other countries report the following minimum conditions to be an auditor: experience (Chile, El Salvador, Mexico, Peru and Uruguay), academic degree (Brazil, Colombia, Mexico, Paraguay and Uruguay), independence and/or non-existence of special interests in an audited company (Chile, El Salvador, Honduras and Peru), clean legal record (Chile, El Salvador, Honduras and Peru), clean credit record (El Salvador and Honduras), etc. Colombia reports that an auditor has to be appointed by the annual general meeting. Mexico reports that an auditor has to pass an examination of the insurance supervisory body. In Paraguay, an auditor has to present a policy of "Guarantee of Acting Professional Labour" of the value of US$ 25,000.

The main duty of an (external) auditor is to prepare an annual auditing report. However, in four countries (Argentina, Brazil, Colombia and Peru), an auditor is involved not only in the preparation of an annual auditing report but also in the preparation of other reports. In Argentina, external auditors have to prepare quarterly special reports related to "minimum capital rules" and monthly special reports related to "coverage of enforceable commitment and outstanding claims", which have to be submitted to the supervisory authority. In Brazil, quarterly and monthly return has to be audited. In Colombia, auditors check quarterly statements. In Peru, independent auditors have to prepare reports on the evaluation of the internal control system biannually, which have to be submitted to the supervisory authority (see also "Reporting"). In Argentina, an auditor has to prepare a limited revision report for a period shorter than one year, which has to be submitted to the insurance company.

Four countries (Colombia, Costa Rica, El Salvador and Peru) report the following extensive duties of an auditor. In Colombia, an auditor has to inform the supervisory authority of any situation considered as irregular. In Costa Rica, an auditor has to ensure that (I) the administrator in charge promptly and faithfully executes the agreements and resolutions of the Board of Governors and (II) the general ongoing of business and administration is in accordance with the respective laws and bylaws. In El Salvador, an auditor must inform the supervisory authority of any situation that can imply danger for the solvency, liquidity or stability of the audited company. In Peru, if an auditor detects problems which would not allow the adequate examination of the company, he/she must immediately report the circumstances to the supervisory authority, indicating the reasons why such evaluation cannot be carried out.

Regarding the relationship between an auditor and the supervisory authority, as mentioned above, 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 and Peru) refer to a special duty of an auditor to report to the supervisory

authority irregularities of an audited company. In addition, the following situations are reported. In Brazil, the supervisory authority may ask specific questions to be answered by an auditor and may request further information. In this country, the supervisory authority has established the Auditing Committee, where members of insurance companies and of the Auditors Council discuss improvements in legislation. In Chile, the supervisory authority can supervise external auditors' activities, regulate the content of their report and request any additional information related to their functions. Additionally, the supervisory authority can nominate external auditors with the purpose of working on specific matters with a special mission. In El Salvador, the supervisory authority must provide information necessary for an auditor to do well his/her job and may provide assistance. In Honduras, the supervisory authority can order, when necessary, the replacement of external auditors.

IV. Insurance Companies in Financial Difficulties

Reference to Solvency Margin

Nine Latin-American countries (Chile, Colombia, El Salvador, Guatemala, Mexico, Nicaragua, Paraguay, Uruguay and Venezuela) explicitly state that they refer to the solvency margin in order to detect insurance companies in financial difficulties. Two countries (Costa Rica and Honduras), which have not yet adopted solvency requirements of insurance companies, do not refer to the solvency margin of insurance companies (see also "Solvency Requirements"). Guatemala reports that solvency margin and equity capital are referred to. Nicaragua reports that the solvency index and the premiums written to equity ratio are the only indicators which are currently used.

In this respect, Colombia points out that, according to the experience of this country, the solvency margin itself is not the most important criterion to prevent the bankruptcy of insurance companies. This country mentions that the following aspects are of paramount importance; (I) the sufficiency of reserves, (II) the adequacy of investments including matching and (III) the nature and adequacy of reinsurance arrangement.

Possible Measures

No Latin-American country reports the existence of specific guidelines which systematically indicate what kind of measures can (or should) be taken in what circumstances, in particular based on certain ratios related to the solvency margin (a typical example is "Risk-Based Capital" in the United States, whereby the Risk-Based Capital Ratio determines the Action Levels such as No Action Level, Company Action Level, Regulatory Action Level, Authorised Control Level and Mandatory Control Level). Nonetheless, there are the following exceptions in this respect. Argentina reports that, if the minimum capital deficit exceeds 30% of the required capital, the supervisory authority must prohibit the insurance company from underwriting new contracts. Likewise, Paraguay reports that, when the deficit reaches 30% of own capital required by the solvency margin, the supervisory authority prohibits insurance companies from issuing new policies.

Four countries (Colombia, Nicaragua, Peru and Uruguay) report that they are currently considering such specific guidelines. Colombia reports that the adoption of an early warning system is currently under study. Nicaragua reports that the new guidelines and indicators system are at present under study. Peru reports that a directive on early warning system is currently being prepared and this could provide a systematic method to detect on a timely basis any irregularities related to insurance

companies. Likewise, Uruguay reports that, although there are no guidelines indicating what kind of measures can be taken in what kind of circumstances, there is a proposed regime under approval.

The following measures are reported as possible: the prohibition of underwriting new contracts and/or renewal of existing contracts, the prohibition of the free disposal of assets, the prohibition of granting collateral and guarantee, portfolio transfer (see "Portfolio Transfer"), capital injection, the restoration of adequacy of investment and/or reinsurance arrangements, setting a restoration plan including sale of the company, taking over management/control, compulsory suspension or termination of business operations, etc. Argentina refers to the possibility of resorting to warnings, summons and fines. Brazil points out that the actions to be taken are determined, depending on each specific case. Argentina and Brazil highlight that in all cases the focus is not to harm the interest of policyholders.

Portfolio Transfer

14 Latin-American countries (Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela) report that the organisation of portfolio transfers by the supervisory body is common or feasible before the actual bankruptcy of an insolvent insurance company. Two countries (Honduras and Panama) report that it is not common or feasible. Honduras has not yet experienced the bankruptcy of insurance companies and the current law does not consider the possibility of organising portfolio transfers. Panama reports that, after intervening in insurance companies in difficulties, the supervisory authority usually takes one of the following measures: (I) order to reorganise them, (II) compulsory liquidation or (III) the declaration of bankruptcy, and therefore portfolio transfer is not common.

Brazil reports that portfolio transfer must be notified to the supervisory authority. Mexico reports that portfolio transfer requires the authorisation of the Ministry of Finance. Peru reports that portfolio transfer of an insolvent insurance company can be carried out by a liquidator.

In Brazil, after the actual bankruptcy, portfolio transfer is no longer allowed. This situation is at present under review.

Policyholders' Protection Fund

Note: "Policyholders' Protection Fund" is here defined as funds/systems which will be triggered when an insurance company has either fallen into a critical condition which may result in its inability to pay the claims already filed or those to be made later, or has actually gone into liquidation.

In 16 Latin-American countries, there exists no policyholders' protection fund. Only two countries (Argentina and Colombia) report the existence of such funds, but in both of these two countries they cover pension (retirement) and workers' compensation only.

Liquidation Procedure

11 Latin-American countries (Argentina, Chile, Colombia, Ecuador, El Salvador, Mexico, Nicaragua, Panama, Paraguay, Peru and Venezuela) report the existence of the preferential status of policyholders in the liquidation procedure of bankrupt insurance companies (in Colombia, for insurance related to social security system (pension and workers' compensation) and compulsory insurance (road traffic accident) only; in Ecuador, for life only; in Panama, for individual life annuity only). In Brazil, at

present policyholders do not have such a preferential status. In this country, however, there are special studies to change this situation, making it possible for policyholders to have a preferential status on the assets corresponding to technical reserves.

While Peru reports that the status of policyholders is inferior to that of labour-related obligations, Argentina reports that policyholders or beneficiaries of life insurance have a preferential status on capital, any payment due or mathematical reserves at the same level as wages, salaries and remuneration.

Cases of Insurance Companies in Financial Difficulties for 1996-1998

Note: This section deals with cases where the insurance supervisory authorities in Latin-American countries actually took measures during the three years between 1996 and 1998 in order to deal with insurance companies in financial difficulties before or after they went bankrupt.

Eight Latin-American countries (Argentina, Bolivia, Brazil, Colombia, Ecuador, El Salvador, Panama and Paraguay) report a number of cases where policyholders actually suffered or may have suffered financial losses, while six countries (Costa Rica, Cuba, Guatemala, Honduras, Nicaragua and Uruguay) report the non-existence of insurance companies in financial difficulties. It is noteworthy that eight countries (Argentina, Bolivia, Brazil, Colombia, El Salvador, Mexico, Paraguay and Venezuela) report altogether 53 cases of compulsory liquidation or termination (Argentina = 24 cases, Bolivia = 6 cases, Brazil = 8 cases, Colombia = 2 cases, El Salvador = 1 case, Mexico = 4 cases, Paraguay = 7 cases and Venezuela = 1 case) and in most of these cases the policyholders suffered or may have suffered financial losses (in the cases of Mexico and Venezuela, policyholders did not suffer financial losses).

This situation seems to be more serious than that experienced by Asian economies during the same time period. According to another OECD study covering 12 Asian economies (Brunei, Hong Kong, Indonesia, Laos, Macau, Malaysia, the Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand and Vietnam), during the three years between 1996 and 1998, policyholders suffered actual financial losses in at most three cases. From this maximum total of three cases, there are two in Indonesia and Malaysia, where it is not clear whether policyholders have suffered any financial losses. (see "Table 24 Cases of Insurance Companies in Financial Difficulties for 1996-1998 (Asian Economies)")

The following causes for such difficulties are reported by respective countries: "financial incapabilities, irregularities in management or accounting, and the infringement of accounting rules" (Argentina), "poor management and a passive and inappropriate regulatory system of the previous administration" (Bolivia), "the insufficiency of technical provisions and/or the lack of liquidity" (Brazil), "rapid growth, adverse loss experience, the insufficiency of technical reserves due to financial reinsurance treaties and the recession of the economy" (Colombia), "the lack of liquidity" (Ecuador), "losses which caused its capital to fall below the minimum requirement, bad management and excessive administrative expenses" (El Salvador), "financial problems" (Mexico), "internal control, investment risk, technical risk, reinsurance risk, management and operational risk" (Peru) and "the 1994 financial crisis and potential bond execution (as collateral) in which the amount at risk might significantly affect the net worth of an insurer" (Venezuela).

Besides compulsory liquidation or termination, the following measures have been taken; "the prohibition of the free disposal of assets and the prohibition or restriction of the acceptance of new business" (Argentina), "voluntary liquidation and mergers" (Bolivia), "the sale of insurance companies concerned" (Brazil), "capital increase" (Chile and Colombia), "to request insurance

companies to inform the supervisory authority of certain aspects such as changes in their policies, or if applicable, the cancellation of certain types of transactions, and the replacement of the management team" (Peru) and "the declaration of a state of permanent inspection" (Venezuela).

V. Other Issues

Compulsory Insurance

In Latin America, the number of compulsory classes of insurance varies from one country to another. While five countries (Cuba, El Salvador, Guatemala, Mexico and Panama) report the non-existence of compulsory classes of insurance, five other countries (Brazil, Costa Rica, Argentina, Ecuador and Uruguay) have relatively many classes of compulsory insurance (respectively 16, 15, 8, 6 and 5).

Only eight countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Nicaragua and Venezuela) report that motor liability or accident insurance is compulsory. Four countries (Ecuador, El Salvador, Guatemala and Panama (in Panama, for commercial vehicles only)) report that the law stipulating compulsory motor insurance has not yet been implemented. In this respect, Brazil and Paraguay report the existence of a green card which is based on the agreement between all Mercosur member countries and is intended to cover accidents occurring outside the country where the car is registered. It covers death, personal injury, property damages and legal expenses.

Only four countries (Argentina, Costa Rica, Peru and Uruguay) report that workers' compensation is compulsory.

As specific regulations applicable to compulsory classes of insurance, the following cases are reported. In Uruguay, workers' compensation is provided in a monopolistic way by the State-owned insurance company only. In Colombia, non-life insurers authorised to operate compulsory road traffic accident insurance are obliged to issue policies. In three 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.

Insurance Distribution

With the exception of Costa Rica, all Latin-American countries report the existence of insurance brokers. It is understood that in Costa Rica there are no insurance brokers, because in this country the State entity monopolises insurance business and therefore intermediaries have to be tied to this State entity. Four countries (Argentina, Brazil, El Salvador and Panama) report the non-existence of insurance agents. However, no particular reasons for such non-existence are mentioned.

With the exception of Honduras, all Latin-American countries with insurance brokers have insurance legislation related to insurance brokers. In Honduras, insurance legislation covers employees of insurance companies and insurance agents only, and insurance brokers are subject to the Commercial Code as independent retailers.

The following points of insurance legislation related to insurance brokers are reported. Four countries (Cuba, Nicaragua Panama and Venezuela) report that insurance brokers have to be authorised by the supervisory authority (in Venezuela, they have to be licensed). Five countries (Argentina, Brazil,

Chile, Guatemala and Peru) report that insurance brokers have to be registered with the insurance supervisory body. Two countries (Colombia and Paraguay) report that they have to be registered. In this respect, Uruguay reports that registration is required for reinsurance brokers only. Argentina reports that insurance brokers have to pass a suitability examination and follow a continuous training scheme. Two countries (Chile and El Salvador) report that insurance brokers have to pass an examination set by the supervisory authority. Paraguay reports the existence of disclosure requirements related to the legal status of insurance brokers. Six countries (Chile, Colombia, Nicaragua, Paraguay, Peru and Venezuela) report that insurance brokers have to possess financial guarantees and/or professional liability insurance. Brazil reports that financial guarantees or professional liability insurance are not required.

Tax Incentives for Life Insurance Products

Except for four countries (Cuba, El Salvador, Honduras and Mexico), all other Latin-American countries report the existence of tax incentives for life insurance products.

The following types of incentives are reported: (I) Life insurance premiums are not subject to value added tax or sales tax (Argentina, Bolivia, Chile, Nicaragua, Paraguay, Peru and Uruguay). (II) Life insurance premiums can be deducted from income tax (Costa Rica and Guatemala). (III) Indemnities from life insurance policies are exempt from income tax (Brazil, Chile, Costa Rica, Nicaragua and Venezuela). (IV) Earnings or capital gains from life insurance policy are exempt from tax (Argentina and Panama).

Insurance Industry Associations

In all Latin-American countries except Costa Rica and Cuba, there exist industry associations of insurers. Seven countries (Argentina, Brazil, Chile, Ecuador, Nicaragua, Panama and Paraguay) report the existence of industry associations of insurance intermediaries.

It is noteworthy that no Latin-American country reports the existence of self-regulatory functions of industry associations such as the setting of codes of practice, the setting of registration requirements of insurance intermediaries, the registration of insurance intermediaries. Industry associations function as economic groups which represent the interests of their members. In this respect, Argentina reports that the law recognises the legitimate rights of industry associations to appeal against any decisions taken by the supervisory authority. Brazil explicitly reports that the association of insurance companies makes proposals on insurance regulation. They may centralise the data and information related to the legal and technical aspect of insurance, and share these data and information among members and publish them. They may keep contact with international circles and associations of foreign countries. They may also provide courses and training.

Table 1 **Direct Premiums Written (1998)**

Country	Direct Premiums Written million US$			Density US$ per Inhabitant (Direct Premiums /Population)			Penetration % (Direct Premiums/GDP)			Life Insurance Share %
	Life	Non-life	Total	Life	Non-life	Total	Life	Non-life	Total	
Argentina	1 991	3 992	5 983	56.14	112.54	168.68	0.67	1.34	2.01	33.28
Bolivia	15	61	75	1.84	7.65	9.49	0.17	0.71	0.88	19.41
Brazil	2 994	13 717	16 711	18.96	86.87	105.84	0.37	1.71	2.08	17.92
Chile	1 618	853	2 471	109.18	57.56	166.73	2.22	1.17	3.39	65.48
Colombia	510	764	1 274	12.49	18.70	31.19	0.51	0.77	1.28	40.04
Costa Rica	14	229	243	3.86	64.90	68.76	0.13	2.19	2.32	5.61
Cuba	0	165	165	0.00	14.79	14.79	0.00	0.69	0.69	0.00
Ecuador	33	216	248	2.67	17.72	20.39	0.16	1.09	1.26	13.11
El Salvador	38	98	136	6.31	16.31	22.61	0.32	0.83	1.15	27.89
Guatemala	41	132	174	3.81	12.26	16.07	0.22	0.70	0.92	23.73
Honduras	28	61	90	4.32	9.39	13.71	0.53	1.14	1.67	31.50
Mexico	2 825	3 423	6 248	29.52	35.78	65.30	0.68	0.82	1.50	45.21
Nicaragua	6	26	32	1.25	5.39	6.64	0.28	1.22	1.50	18.84
Panama	139	197	336	50.18	71.12	121.30	1.52	2.15	3.67	41.37
Paraguay	0(1)	107	108	0.04	21.08	21.12	0.00	1.27	1.27	0.20
Peru	148	393	541	5.96	15.84	21.80	0.24	0.63	0.86	27.35
Uruguay	53	329	383	16.36	101.45	117.81	0.26	1.58	1.84	13.88
Venezuela	38	769	807	1.63	33.08	34.71	0.04	0.81	0.85	4.71
OECD average (1998)	-	-	-	954	862	1 816	4.58	4.14	8.71	54.34(2)

Notes:

(1) US$ 215 000.00

(2) Total gross premiums basis

Table 2 **Number of Insurance Companies (life/non-life/composite/reinsurance)**

Country	Life	Non-Life	Composite[(1)]	Reinsurance[(2)]	Total
Argentina	73	77	83	103	336
Bolivia	8	11	0	0	19
Brazil	25	12	102	1	140
Chile	33	25	0	4	62
Colombia	23	30	0	1	54
Costa Rica	0	0	1	0	1
Cuba	6[(3)]	3	0	2[(4)]	11
Ecuador	5	11	26	2	44
El Salvador	1	0	14	0	15
Guatemala	0	3	14	0	17
Honduras	1	1	10	0	12
Mexico	9	15	41	3	68
Nicaragua	0	0	5	0	5
Panama	3	2	19	12	36
Paraguay	0	41	2	0	43
Peru	4	3	10	0	17
Uruguay	5	8	4	0	17
Venezuela	2	16	44	4	66

Notes

(1) Composite means insurance companies which concurrently place both life and non-life business.

(2) Reinsurance means insurance companies which exclusively underwrite reinsurance.

(3) There are 6 branches of foreign life insurance companies, which only fulfil contractual obligations undertaken before 1963.

(4) There are 2 branches of foreign reinsurance specialists, which at present do not carry out operations.

Table 3 **Number of Insurance Companies (State-owned/national private/foreign-controlled/branches)**

Country	State-owned Companies[1]	National Private Companies[2]	Foreign-controlled Companies[3]	Branches and Agencies of Foreign Companies	Total
Argentina	2	153	74[4]	7[4]	336
Bolivia	0	18	0	1	19
Brazil	3	95	41	1	140
Chile	0	24	38	0	62
Colombia	4	36	14	0	54
Costa Rica	1	0	0	0	1
Cuba	1	2	0	8[5]	11
Ecuador	0	40	0	4	44
El Salvador	0	14	0	1	15
Guatemala	1	13	3	0	17
Honduras	0	10	0	2	12
Mexico	2	41	25	0	68
Nicaragua	1	4	0	0	5
Panama	0	19	11	6	36
Paraguay	0	40	2	1	43
Peru	1	10	6	0	17
Uruguay	1	2	14	0	17
Venezuela	1	51	14	0	66

Notes

(1) State-owned companies means companies whose majority (50% or more) of the controlling powers belongs to the State.

(2) National private companies means companies whose majority (50% or more) of the controlling powers belongs to national entities excluding State-owned companies.

(3) Foreign-controlled companies means companies whose majority (50% or more) of the controlling powers does not belong to national entities excluding branches and agencies of foreign companies.

(4) These figures do not include reinsurance specialists ("national private companies" include 3 reinsurance specialists). There are 100 reinsurance specialists, which are classified as either "foreign-controlled companies" or "branches and agencies of foreign companies".

(5) There are 6 branches of foreign life insurance companies fulfilling only contractual obligations undertaken before 1963 and 2 branches of foreign reinsurance specialists which at present do not carry out operations.

Table 4 **Number of Employees of Insurance Companies**

Country	Number of employees	Premium/ employee in US$
Argentina	22 895	261 334
Bolivia	900	83 843
Brazil	35 957	464 761
Chile	10 844	227 868
Colombia	12 804	99 473
Costa Rica	2 390	101 555
Cuba	921	178 837
Ecuador	2 435	101 896
El Salvador	1 147	118 873
Guatemala	1 250	138 880
Honduras	1 762	50 876
Mexico	22 325	279 859
Nicaragua	367	86 784
Panama	1 700 – 1 800	186 667 – 197 647
Paraguay	1 600	67 188
Peru	2 782	194 370
Uruguay	2 298	166 615
Venezuela	n.a.	n.a.
OECD average (1998)	-	601 742

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (1998)**

Argentina

	Life %	Non-life %	Total %
Real Estate	3.82	6.12	5.69
Shares	14.38	6.67	8.12
Bonds	42.07	38.39	39.08
Loans	1.55	1.48	1.49
Other Investments	38.18	47.34	45.62
Total	100.00	100.00	100.00

Bolivia

	Life %	Non-life %	Total %
Real Estate	0.00	38.31	37.06
Shares	0.29	3.41	3.31
Bonds	8.48	2.32	2.52
Loans	0.00	1.82	1.76
Other Investments	91.24	54.14	55.34
Total	100.00	100.00	100.00

Brazil (*)

	Life %	Non-life %	Total %
Real Estate	n.a	n.a	6.57
Shares	n.a	n.a	7.31
Bonds	n.a	n.a	86.11
Loans	n.a	n.a	0.00
Other Investments	n.a	n.a	0.00
Total	100.00	100.00	100.00

* These figures indicate only assets corresponding to technical provisions. Because companies conducting life business are also allowed to sell private pension products, these figures include assets corresponding to technical provisions for private pensions.

Chile

	Life %	Non-life %	Total %
Real Estate	7.67	11.47	7.82
Shares	3.67	2.13	3.61
Bonds	35.66	21.60	35.11
Loans	0.00	0.00	0.00
Other Investments	53.02	65.07	53.47
Total	100.00	100.00	100.00

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (1998) (continued)**

Columbia

	Life %	Non-life %	Total %
Real Estate	0.00	0.00	0.00
Shares	33.89	42.06	38.34
Bonds	15.93	8.89	12.10
Loans	0.00	0.00	0.00
Other Investments	50.17	49.04	49.56
Total	100.00	100.00	100.00

Costa Rica

	Life %	Non-life %	Total %
Real Estate	n.a	n.a	n.a
Shares	n.a	n.a	n.a
Bonds	n.a	n.a	n.a
Loans	n.a	n.a	n.a
Other Investments	n.a	n.a	n.a
Total	100.00	100.00	100.00

Cuba

	Life %	Non-life %	Total %
Real Estate	0.00	0.00	0.00
Shares	0.00	52.00	52.00
Bonds	0.00	0.00	0.00
Loans	0.00	0.00	0.00
Other Investments	0.00	48.00	48.00
Total	0.00(*)	100.00	100.00

(*) Life operation does not exist in this country.

Ecuador

	Life %	Non-life %	Total %
Real Estate	14.04	32.31	29.27
Shares	3.31	10.45	9.26
Bonds	79.07	57.18	60.83
Loans	3.58	0.05	0.64
Other Investments	0.00	0.00	0.00
Total	100.00	100.00	100.00

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (1998) (continued)**

El Salvador

	Life %	Non-life %	Total %
Real Estate	4.37	4.17	4.18
Shares	10.69	13.65	13.43
Bonds	13.13	7.47	7.88
Loans	25.73	28.62	28.41
Other Investments	46.08	46.10	46.10
Total	100.00	100.00	100.00

Guatemala

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	9.00
Shares	n.a.	n.a.	4.18
Bonds	n.a.	n.a.	42.83
Loans	n.a.	n.a.	18.18
Other Investments	n.a.	n.a.	25.81
Total	100.00	100.00	100.00

Honduras

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	8.89
Shares	n.a.	n.a.	8.89
Bonds	n.a.	n.a.	9.48
Loans	n.a.	n.a.	26.21
Other Investments	n.a.	n.a.	46.53
Total	100.00	100.00	100.00

Mexico

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	9.09
Shares	n.a.	n.a.	11.80
Bonds	n.a.	n.a.	72.45
Loans	n.a.	n.a.	3.45
Other Investments	n.a.	n.a.	3.22
Total	100.00	100.00	100.00

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (1998) (continued)**

Nicaragua

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	5.48
Shares	n.a.	n.a.	1.37
Bonds	n.a.	n.a.	64.07
Loans	n.a.	n.a.	9.30
Other Investments	n.a.	n.a.	19.79
Total	100.00	100.00	100.00

Panama

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	8.04
Shares	n.a.	n.a.	17.87
Bonds	n.a.	n.a.	29.53
Loans	n.a.	n.a.	10.23
Other Investments	n.a.	n.a.	34.32
Total	100.00	100.00	100.00

Paraguay

	Life %	Non-life %	Total %
Real Estate	85.64	41.26	48.93
Shares	0.00	0.77	0.63
Bonds	0.00	0.00	0.00
Loans	0.00	1.74	1.44
Other Investments	14.36	56.24	49.00
Total	100.00	100.00	100.00

Peru (*)

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	12.90
Listed Shares and Mutual Funds	n.a.	n.a.	19.38
Rated Corporate Bonds	n.a.	n.a.	12.63
Deposits and Payments of any nature	n.a.	n.a.	13.44
Other Investments	n.a.	n.a.	41.66
Total	100.00	100.00	100.00

(*) For this country, only the following classification is available.

Table 5 **Investments by Direct Insurance Companies: Percentages by Classes of Investment (1998) (continued)**

Uruguay

	Life %	Non-life %	Total %
Real Estate	n.a.	n.a.	35.06
Shares	n.a.	n.a.	0.00
Bonds	n.a.	n.a.	35.38
Loans	n.a.	n.a.	3.96
Other Investments	n.a.	n.a.	25.60
Total	100.00	100.00	100.00

Venezuela

	Life %	Non-life %	Total %
Real Estate	0.00	28.12	28.02
Shares	19.40	14.16	14.18
Bonds	39.92	45.45	45.43
Loans	18.48	1.20	1.26
Other Investments	22.19	11.07	11.10
Total	100.00	100.00	100.00

Table 6 **Investments by Direct Insurance Companies: Percentages by Classes of Investment: Examples of the Four Big OECD Insurance Markets (1998)**

United States

	Life %	Non-life %
Real Estate	1.47	1.26
Shares	6.63	30.51
Bonds	70.04	59.46
Loans	16.73	0.23
Other Investments	5.14	8.54
Total	100.00	100.00

Japan

	Life %	Non-life %
Real Estate	5.07	5.97
Shares	17.21	19.60
Bonds	32.82	29.51
Loans	30.83	20.71
Other Investments (*)	14.07	24.21
Total	100.00	100.00

(*) "Foreign Shares and Bonds" are included in "Other Investments".

Germany

	Life %	Non-life %
Real Estate	3.72	4.42
Shares	6.61	13.02
Bonds	11.13	14.47
Loans	59.01	46.95
Other Investments	19.52	21.14
Total	100.00	100.00

United Kingdom

	Life %	Non-life %
Real Estate	8.07	2.29
Shares	52.10	24.47
Bonds	36.76	63.76
Loans	2.48	6.28
Other Investments	0.59	3.21
Total	100.00	100.00

Table 7 **Insurance Supervisory Authority**

Country	Name of Supervisory Body (and role, if more than one body)	Financed by:	Number of Employees
Argentina	National Insurance Superintendence	State budget[1]	372
Bolivia	Insurance Division, Supervision of Pensions, Securities and Insurance	Insurers	33
Brazil	Superintendency of Private Insurance[2]	Insurers	309
Chile	Superintendency of Securities and Insurance	State budget	48[3]
Colombia	Banking Superintendency	Supervised entities	82[4]
Costa Rica	None[5]		
Cuba	Insurance Superintendency	State budget and insurers	16
Ecuador	National Intendency of Insurance Companies[6]	Insurers	66
El Salvador	Insurance Division, Superintendence of Financial System	Central Bank and banks[7]	14[8]
Guatemala	Insurance Department, Superintendence of Banks	Central Bank and all supervised institutions	35
Honduras	National Commission of Banking and Insurance	50% by Central Bank and 50% by supervised institutions	18[9]
Mexico	Insurance and Sureties National Commission	Insurers and insurance intermediaries	396
Nicaragua	Insurance Commissioner's Office, Superintendent of Banking and Other Financial Institutions	25% by Central Bank and 75% by supervised institutions	6
Panama	Insurance and Reinsurance Superintendence	State budget, insurers and insurance brokers	40
Paraguay	Insurance Superintendence	Central bank	53
Peru	Superintendency of Banking and Insurance	Supervised institutions	33[10]
Uruguay	Superintendence of Insurance and Reinsurance	Central Bank	14
Venezuela	Superintendence of Insurance	Insurers	163

Notes:

(1) However, it is stipulated by the law that the National Insurance Superintendence is a decentralised organisation with financial autarky.

(2) The business license itself is granted by the Ministry of Finance, after the Superintendency of Private Insurance (SUSEP) analyses licensing requirements and makes a proposal to (or not to) grant a license. The National Council of Private Insurance (CNSP) is an insurance regulatory body. The CNSP consists of the Minister of Finance, the SUSEP's Superintendent, representatives of the Ministry of Justice, the Ministry of Social Security and Assistance, the Central Bank of Brazil and the Brazilian Federal Securities and Exchange Commission.

(3) There are 194 people working in the Superintendency of Securities and Insurance, with 48 of them responsible for insurance.

(4) There are about 800 employees working in the Banking Superintendency, with 82 of them responsible for insurance.

(5) Until now insurance business is monopolised by the State entity. Therefore, there is at present no insurance supervisory body. However, there is a legislative project to create the Superintendency for Insurance Entities, Bonds, Guarantees and Pension Funds.

(6) This is a section of the Superintendency of Banks of Ecuador.

(7) The Superintendence of Financial System is financed partly by the Central Bank and partly by supervised banks. At present insurance companies do not need to contribute. But the new law will require them to do so.

(8) The Insurance Division has 14 on-site supervisors. In addition, there are 11 financial analysts who perform off-site supervision and 4 legal experts who assist supervisors during on-site inspection. 11 financial analysts and 4 legal experts also work in the banking sector.

(9) 18 persons in the insurance area within the National Commission of Banking and Insurance.

(10) There are 350 persons working for the Superintendency of Banking and Insurance, with 33 working under the Deputy Superintendency of Insurance.

Table 8 **Licensing Requirements**

Country	Legal Form[1]	Minimum Capital	Business Plan (Time Horizon to be covered)	Fit and Proper of Management	Others
Argentina	Public limited company, co-operative, mutual	Y	N[2]		"suitability of activity"[3]
Bolivia		Y			Technical, economic and feasibility study
Brazil	Corporation	Y[4]	N[5]		
Chile	Corporation	Y[6]	N[7]		
Colombia	Corporation, co-operative	Y[8]			Feasibility study[9]
Costa Rica[10]					
Cuba	Anonymous society, mutual society	Y[11]	Y[12] (in practice 3 to 5 years)		
Ecuador	Joint stock company	Y[11][13]			Feasibility study
El Salvador	Joint stock company	Y[11]	Y (10 years)		
Guatemala	Corporation by shares	Y[11]	Y (5 years)		
Honduras	Anonymous society	Y[14]	Y (5 years)		Economic needs test
Mexico	Anonymous society, mutual society	Y[11][15]			Technical operation program[16]
Nicaragua		Y[11]	Y[17] (not specified)		- the names and addresses of actuaries -economic needs test[18]
Panama		Y			Feasibility study[19]
Paraguay		Y[11]			
Peru	Common stock company	Y[11][20]		-[21]	Feasibility study[22]
Uruguay	Joint stock company (registered shares)[23]	Y[11]	Y(at least 3 years)	-[24]	
Venezuela	Stock company (registered shares)	Y[11]			– financial-economic study[25] – economic needs test[26] – the majority of the board of directors must be Venezuelans resident in Venezuela – at least 50% of the executive employees (vice-presidents, directors, managers, assistant managers, etc.) must be Venezuelans resident in Venezuela

Notes : Y: Yes N: No

(1) Excluding branches of foreign insurers

(2) The draft law requires a business plan for the first three years.

(3) The suitability of an applicant's activity in the insurance market is a condition to grant a license. It is explained that there have actually been no cases where the "excessive number of already existing insurance companies" was an argument to reject an application, although the law does not prohibit it.

(4) The amount of the minimum capital 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.

(5) Studies are carried out in order to introduce a business plan. It is expected to be introduced by July 2001.

(6) The amount of minimum capital is stipulated as a single uniform amount applicable to all applicants by using a monetary account unit which the government adjusts every day based on the consumer price index.

(7) No business plan or feasibility study is required.

(8) The amount of minimum capital consists of a fixed amount applicable to all applicants and an amount depending on the nature and number of lines to be operated.

(9) It is considered as reasonable for a feasibility study to cover the first three years.

(10) In this country, insurance business is monopolised by the State entity. Therefore, there exists no licensing procedure which authorises the establishment of new insurance companies.

(11) The amount of minimum capital depends on the line or lines or insurance to be operated.

(12) In practice, it covers the first three to five years, although no specific time horizon is stipulated by the law and regulations.

(13) The amount of minimum capital is stipulated by using "units of constant value".

(14) The minimum capital required stipulated in the law is at present US$26.7 thousands. When granting a license, however, other factors are considered, such as the type of operations to be carried out, average capital of existing insurance companies that have similar size, objectives, etc. The most recent insurance companies that have been authorised have initial capital of approximately US$1.0 million.

(15) The amount of minimum capital is stipulated by using a unit of investment which is updated according to inflation. This value is disclosed by the Central Bank.

(16) It is technical and financial results projection for the first three years, including sales by lines of business, expected losses, reinsurance, investment return, etc.

(17) No time horizon is stipulated.

(18) An applicant must justify the economic benefit to the country and/or insurance industry. Any other information may be requested in order to determine the economic need and financial success of an applicant.

(19) A feasibility study should include market analysis and the projection of an applicant in the short, medium and long term.

(20) The amount of minimum capital is updated quarterly by using the wholesale price index.

(21) Individuals and legal entities wishing to organise insurance companies must be morally suitable and financially solvent.

(22) No time horizon is stipulated, but usually it covers the first five years.

(23) Since 1994, the new establishment of mutual societies is not allowed.

(24) The suitability of directors and owners is required.

(25) A financial-economic study should justify the establishment of a new enterprise.

(26) Economic needs test is one of the factors taken into account during the licensing procedure. Application can be refused without any obligation on the part of the authority to indicate any reasons for such a refusal.

Table 9 **Licensing: Market Access**

Country	Application of Economic Needs Test	Establishment by Foreign Insurers		
		Admissibility of Wholly- owned Subsidiaries	Admissibility of Joint Ventures (maximum limit of foreign participation)	Admissibility of Branches
Argentina[1]	Y[2]	Y	Y (without the maximum limit)	Y
Bolivia[3]	N	Y	Y	Y
Brazil	N	Y	Y (without the maximum limit)	N[4]
Chile[5]	N	Y	Y (without the maximum limit)	N
Colombia[6]	-	Y	Y (without the maximum limit)	N
Costa Rica[7][8]	-	N	N	N
Cuba	N	N[9]	Y[9]	Y
Ecuador[10]	N	Y	Y (without the maximum limit)	Y
El Salvador[8]	N	Y[11]	Y[11] (without the maximum limit)	N[12]
Guatemala[13]	N	N[14]	Y[14]	N
Honduras[15]	Y	N[16]	Y[16] (40%)	Y
Mexico	N	N[17]	Y[17] (49%)	N
Nicaragua	Y[18]	Y	Y (without the maximum limit)	N
Panama	N	Y	Y (without the maximum limit)	Y
Paraguay	N	Y	Y (without the maximum limit)	Y
Peru	N	Y	Y (without the maximum limit)	Y
Uruguay	N	Y	Y (without the maximum limit)	N
Venezuela	Y[19]	Y	Y (without the maximum limit)	N

Notes: Y: Yes N: No

(1) According to the WTO commitments of this country, authorisation of the establishment of new entities is suspended for both direct insurance and reinsurance services.

(2) The suitability of an applicant's activity in the insurance market is a condition to grant a license. It is explained by the National Insurance Superintendence that actually there have been no cases where the excessive number of already existing insurers was an argument to reject an application although the law does not prohibit it.

(3) According to the WTO commitments, this country applies an economic needs test. The establishment of agencies and representative offices are prohibited in this country, while the establishment of subsidiaries and branches is allowed.

(4) According to the WTO commitments of this country, incorporation under Brazilian law is required.

(5) According to the WTO commitments of this country, a supplier of financial services operating through a commercial presence may be subject to evidence of economic need.

(6) According to the WTO commitments of this country, the Government may make an authorisation for domestic and foreign financial entities to operate in Colombia subject to an economic needs test. For this purpose, factors such as the public interest and local and general economic and financial conditions are taken into account.

(7) In this country, the State Monopoly provides all lines of insurance

(8) According to the WTO commitments of this country, the insurance sector is unbound.

(9) According to the WTO commitments of this country, as a general rule, foreign investment in the capital of joint enterprises can be up to 49 per cent of the stock; however, in certain cases the competent bodies may authorise a higher level of investment.

(10) According to the WTO commitments of this country, since 3 November 1995, for reasons of monetary policy and banking and financial prudential considerations, no insurance or reinsurance companies may be established (this provision applies equally to national and foreign investors). In addition, this country does not allow the establishment of a representative office.

(11) Foreign insurers have to have a good rating given by a known rating agency (e.g. if its long-term debt is rated BBB – or higher by S&P).

(12) According to the Insurance law which came into effect in 1997, the establishment of branches of foreign insurers is no longer allowed.

(13) According to the WTO commitments of this country, direct insurance services are unbound.

(14) According to the Commerce Code, no one can hold 100% of equity capital. A foreign insurer can hold, for example, 99.99% of equity capital of a joint venture.

(15) According to the WTO commitments of this country, the operation of insurance institutions is subject to approval by the Central Bank of Honduras, in accordance with general and local economic conditions and requirements. This approval will take into consideration, inter alia, a market survey showing that the current and future conditions of the insurance market permit the satisfactory operation of the company to be set up. This survey must be based on analysis of the principal economic and financial variables of the insurance system in Honduras or any other model demonstrating the economic feasibility of the institution to be set up.

(16) The WTO commitments of this country state as follows: Only public limited companies with share capital and mutual companies may engage in insurance activities. In the case of public limited companies with share capital, the shares must be registered and at least 60 per cent of the share capital must belong to Honduran nationals.

(17) In this country, "subsidiaries" is understood as companies with foreign capital of more than 49%. At present, only NAFTA-based institutions can establish subsidiaries without any market share quotas restriction. It is expected that in a short time the Congress will approve the extension of NAFTA benefits to all OECD Member countries. For the remaining institutions which are neither NAFTA-based nor OECD-based, the limit of participation will remain 49%.

(18) An applicant must justify the economic benefit to the country and/or insurance industry. Any other information may be requested in order to determine the economic need and financial success of an applicant.

(19) Economic needs test is one of the factors taken into account during the licensing procedure. Applications can be refused without any obligation on the part of the authority to indicate any reasons for such a refusal.

Table 10 **Specialisation**

Country	Admissibility of Composite Insurers (*)	Existence of Provisions Related to Cross-sectoral Investments(**)
Argentina	N(1)	N
Bolivia	N(2)	Y(3)
Brazil	Y	Y(4)
Chile	N(5)	Y(6)
Colombia	N(7)	Y(8)
Costa Rica	Y(9)	Y(10)
Cuba	N	N
Ecuador	N(1)	N
El Salvador	Y	Y(11)
Guatemala	Y	N
Honduras	Y(12)	Y(13)
Mexico	Y	Y(14)
Nicaragua	Y	N
Panama	Y	-(15)
Paraguay	Y	N
Peru	Y(16)	Y(17)
Uruguay	Y	Y(18)
Venezuela	Y	N

Notes: Y: Yes N: No

(*) "Composite Insurers" means legal entities which concurrently place both life and non-life business.

(**) "Cross-sectoral investments" means the creation of banking subsidiaries of insurance companies, insurance subsidiaries of banking institutions, etc.

(1) Although there exist composite insurers in this country, the new establishment of such insurers has been prohibited since 1998.

(2) There are three business categories: personal insurance, bond insurance and general insurance. The operation of personal insurance excludes the operation of other categories.

(3) The content of such provisions is not reported.

(4) The objective of insurance companies must be exclusive, although insurers authorised to operate life business may place open pension funds business.

(5) Personal accident and health business can be placed by both life and non-life insurers.

(6) Banks are not allowed to create insurance subsidiaries, although they are allowed to have insurance brokerage subsidiaries. Insurance companies are allowed to create banking subsidiaries. This situation is currently under review.

(7) Accident and health business can be placed by both life and non-life insurers.

(8) Cross sectoral investments are not allowed.

(9) As the State monopoly, the National Institute for Insurance is the only single entity operating all insurance lines.

(10) The authorisation for a bank to establish an insurance agency or an insurance company to establish a bank is prohibited.

(11) An insurance company cannot be a subsidiary of a bank, and vice versa.

(12) Legislation does not require investments and accounts to be separated between life and non-life insurance.

(13) Insurance companies can be engaged in activities directly related to their insurance operation.

(14) The creation of banking subsidiaries of insurers, insurance subsidiaries of banks is not allowed. However, the participation of insurers and banks in financial conglomerates is allowed.

(15) There is no restriction concerning cross-sectoral investments.

(16) Composite insurers must submit separate accounting information for life and non-life business.

(17) Insurers are allowed to create, as their subsidiaries, financial institutions and health granting institutions (institutions providing health care to workers). Financial institutions are allowed to create insurance subsidiaries.

(18) Insurance companies should not carry out any activities other than those in connection with, or for the purposes of their insurance business. Financial institutions have similar rules concerning cross-sectoral investments, although they are specifically allowed to invest in management companies of pension mutual funds.

Table 11 **Insurance Accounting Principles**

Country	Adoption of Insurance Accounting Principles	Content of Insurance Accounting Principles
Argentina	Y	The National Insurance Superintendence has adopted specific valuation and presentation rules of a general, uniform and compulsory nature for the insurance entities, in accordance with the law. The aspects, which are not specifically considered by the law, are covered by the valuation criteria which are stipulated by the technical institutions of the accounting profession in a more general way.
Bolivia	N	However, the Generally Accepted Accounting Principles (GAAP) and the International Accounting Standards (IAS) are applied. A new project will be launched to introduce specific accounting principles for insurance companies, which will be submitted for consideration and approval to the Professional Accounting Association of Bolivia.
Brazil	Y	In general, the GAAP have to be followed, but there are special rules stipulated by the specific law.
Chile	N	However, insurance and reinsurance companies in Chile must base their accounting on the GAAP, with the following two exceptions: – Acquisition costs are not deferred, they have to be reflected in the period when they are incurred. – Life insurance companies calculate their reserves at a discount rate which takes into account the mismatching risk between the assets and the liabilities
Colombia	Y	The general framework of accounting procedures and the standard code of accounting statements are stipulated.
Costa Rica	Y	The GAAP have been adopted.
Cuba	N	
Ecuador	Y	Based on the IAS, 17 Ecuadorian Accounting Standards have been developed.
El Salvador	Y	Since March 2000, the IAS have been adopted.
Guatemala	Y	There is specific accounting code for insurance companies. Insurance companies are required to comply with, firstly this code and then the GAAP. But both are very similar to each other.
Honduras	N	At present, studies are carried out in order to adopt the IAS and other guidelines suggested by the International Accounting Standard Committee (IASC).
Mexico	Y	Insurance industry is at present adopting the GAAP.
Nicaragua	Y	The GAAP are used in most cases.
Panama	N	However, independent auditors carry out audits in accordance with the U.S. GAAP.
Paraguay	Y	The Accounting work shall be carried out according to the following regulations: – Regulations issued by the Insurance Superintendence – The IAS – Regulations adopted by the Accountants School of Paraguay. Some projects are carried out in order to update the accounting system.
Peru	Y	Insurance companies carry out their accounting based on the Chart of Accounts for Companies of the Insurance System, approved by the Superintendency of Banking and Insurance. This Chart of Accounts was prepared taking into account the GAAP and IAS.
Uruguay	Y	Insurance companies must comply with accounting rules set by the Superintendence of Insurance and Reinsurance and present their financial information in a special report form set by the Superintendence.
Venezuela	Y	The basis for the presentation of financial statements of insurance companies is stipulated by the law. Insurance companies must apply the Accounting Rules and Practices elaborated by the Superintendence of Insurance and regulations rules by the Superintendence.

Notes: Y: Yes N: No

Table 12 **Reporting and On-site Inspection**

Country	Periodicity of Reporting	Periodicity of On-site Inspection
Argentina	Annual return, complemented by quarterly and monthly return	Periodicity is not mentioned.
Bolivia	Annual return, complemented by quarterly and monthly return	-
Brazil	Annual return, complemented by semi-annual, quarterly and monthly return	On a case-by-case basis, but the Superintendency of Private Insurance intends to cover each insurance company once every three years.
Chile	Annual return, complemented by quarterly return	More than once a year(1)
Colombia	Annual return, complemented by quarterly return	Although there is a schedule, the Banking Superintendency hardly complies with it, because many aspects arise from quarterly information.
Costa Rica(2)	-	-
Cuba	Annual return, complemented by quarterly return	Periodicity is not mentioned.
Ecuador	Annual return, complemented by monthly return	At least once a year.
El Salvador	Annual return, complemented by monthly return	Once a year.
Guatemala	Annual return, complemented by monthly return(3)	Periodicity is not mentioned.
Honduras	Annual return, complemented by quarterly and monthly return	On-site general inspection is conducted once a year. In addition, on-site special inspection is conducted when it is necessary.
Mexico	Annual return, complemented by quarterly return	On average, every 2 years.(4)
Nicaragua	Annual return, complemented by quarterly and monthly return	The law requires an annual on-site inspection.
Panama	Annual return(5)	The supervisory authority visits each insurance company ten times a year.(6)
Paraguay	Annual return, complemented by quarterly return	On-site inspection is conducted depending on the solvency of insurance companies (not on a periodical basis).
Peru	Annual return, complemented by semi-annual, quarterly and monthly return	At least once a year and whenever it is necessary.(7)
Uruguay	Annual return, complemented by quarterly and monthly return	Once every three years and when there is any trouble.
Venezuela	Annual return, complemented by semi-annual, quarterly and monthly return	Periodicity is not mentioned.

Notes:

(1) On-site inspection is planned annually in relation to some special matters such as technical reserves and investments. Additionally a special on-site inspection can be carried out, if the Superintendence of Securities and Insurance recognises, or has doubt about, a specific problem in an insurance company. Furthermore, the Superintendence may order an insurance company to contract for an additional external audit, if it discovers any important irregularities.

(2) At present, there is no insurance supervisory body in this country.

(3) The Superintendence of Banks can request, at any time, information considered as necessary.

(4) There are three kinds of on-site inspection: ordinary, special and investigation. The first takes place according to the annual program approved by the Commission President. The second is conducted when it is necessary in the opinion of the Commission President to examine a special situation or, if necessary, correct it. The third has an objective to solve a specific situation. Without a special situation, on-site inspection is conducted on average every 2 years.

(5) In addition to annual return, the insurance companies have to compile statistical claims data required by the Superintendence and submit it every month.

(6) Each visit has a specific objective such as the revision of solvency margin (4 times a year), the revision of reinsurance contracts, the revision of reserves and investments, the revision of financial statements of insurers and reinsurers, the revision of compliance of reinsurance contract in bonds branch, the revision of insurance brokers and the revision of premiums overdue for more than 90 days.

(7) On-site inspection can be conducted either by the Superintendency of Banking and Insurance or through the auditing firms which the Superintendence authorises.

Table 13 **Solvency Requirements and Technical Provisions**

Country	Adoption of Solvency Requirements	Adoption of Principles or Guidelines Related to Technical Provisions
Argentina	Y Similar to EU directives.	Y The National Insurance Superintendence supervises the appraisal of provisions for outstanding claims and provisions for unearned premiums. The calculation of mathematical provisions must be specified in an actuary report, which is included in the technical conditions of the respective insurance cover to be authorised by the Superintendence.
Bolivia	Y The solvency margin is capital resources that insurance companies must keep in order to face possible deviations of claims.	Y The calculation methods of the following provisions are stipulated: provisions for unearned premiums (1/24 method or 1/12 method) and provisions for outstanding claims including IBNR, etc.
Brazil	Y The rule is applied only for non-life insurance operation or companies. The net worth has to be adjusted, for example, by deducting the assets which do not represent available values (such as prepaid expenses). The net worth adjusted must be higher than 20% of the average premiums retained for the last three years or 33% of the average losses for the last five years. Another index to be used analyses the capital structure [(current liability + long-term liability – loss reserves) / net worth].[(1)]	Y All technical provisions such as mathematical provisions and provisions for outstanding claims are stipulated by the National Council of Private Insurance. Insurance companies may constitute special provisions, if they are previously approved by the Superintendency. Insurance companies are also obliged to constitute IBNR provisions, based on a methodology proposed by them and approved by the Superintendency. There are studies to introduce amendments in respect of technical provisions, which are expected to be introduced by the end of 2000.
Chile	Y Insurance companies have to maintain "Risk Equity", which is the highest result after taking into account "debt ratio", "solvency margin" and "minimum capital". "Solvency margin" is determined by taking into account the amount of premiums written, the average claim costs and the reinsurance.	Y The following technical provisions have to be constituted in compliance with procedures, mortality tables, technical interest rates and the other aspects stipulated by the Superintendence of Securities and Insurance: provisions for unearned premiums, mathematical provisions, provisions for outstanding claims including IBNR and "additional to unearned premium reserve" (provisions for risks whose magnitude is little known, highly fluctuating, cyclical or catastrophic).
Colombia	Y The solvency margin is stipulated by taking into account both the EU directives and the Basle Committee rules.	Y The following technical provisions have to be constituted: provisions for unearned premiums (in principle 1/8 method), mathematical provisions, provisions for outstanding claims including IBNR and claims deviation reserves (for earthquake insurance).
Costa Rica	N	Y The following technical provisions are stipulated by the law: mathematical provisions, provisions for unearned premiums, provisions for outstanding claims, reserves for dividend to policyholders and contingency reserves.
Cuba	Y	Y Technical provisions related to premiums obligations and catastrophes obligations are stipulated.
Ecuador	Y Insurance companies must meet solvency margins determined as follows: a) net premiums received in the preceding twelve months may not be more than six times fixed capital; b) fixed capital may not be less than one-sixth of total assets less deferred liabilities.	Y The following technical provisions are stipulated by the law: provisions for unearned premiums (in principle 1/24 method), mathematical provisions, provisions for outstanding claims and reserves for exceptional losses and disasters.

Table 13 **Solvency Requirements and Technical Provisions (continued)**

El Salvador	Y Insurance companies must comply with minimum capital requirements. The minimum capital is defined as the largest amount of : (i) the minimum capital necessary to keep the total debt/net capital ratio lower than 5; (ii) the resulting amount of applying product-specific solvency requirements; and (iii) the minimum capital as one of licensing requirements.	Y The calculation methods of the following provisions are stipulated: provisions for unearned premiums (1/24 method), mathematical provisions, etc.
Guatemala	Y based on EU Directives.	Y Provisions for unearned premiums are calculated according to percentages stipulated in the law (10% for marine cargo, inland marine, aviation, car, accident and other similar; others 25%). The new draft law will modify this point.
Honduras	N There are at present no solvency requirements. The new draft law, which is subject to the approval of the National Congress, will introduce solvency margin and the minimum capital adequacy.	N The new draft law will stipulate the calculation method of technical provisions. In the case of provisions for unearned premiums, 45% of premium income will have to be set aside and, in the case of mathematical provisions, an actuarial note will determine it.
Mexico	Y The solvency margin is determined by the Assets Counted Towards Minimum Guarantee Capital (ACTMGC), minus the Minimum Guarantee Capital (MGC) required.(2)	Y The following technical provisions have to be constituted: mathematical provisions, provisions for unearned premiums (daily pro rata basis on 1/24 method), provisions for outstanding claims including IBNR, equalisation reserves, catastrophic risk reserves (for earthquake) and special contingency reserves (for agriculture, cattle and travellers' insurance).
Nicaragua	Y(3)	Y Principles are set for provisions for unearned premiums, provision for outstanding claims including IBNR and catastrophic reserves.
Panama	Y	Y(4)
Paraguay	Y The same as the EU Directives	Y Mathematical provisions, provisions for unearned premiums, provisions for outstanding claims including IBNR.
Peru	Y	Y The following provisions have to be constituted: mathematical provisions, provisions for outstanding claims, provisions for unearned premiums, provisions for unexpired risks and reserves for catastrophes and uncertain losses.
Uruguay	Y Based on the EU Directives	Y Mathematical provisions, provisions for unearned premiums, provisions for outstanding claims including IBNR.
Venezuela	Y	Y The following provisions are stipulated: mathematical provisions, provisions for unearned premiums, provisions for outstanding claims and contingency reserves.

Notes: Y: Yes N: No

(1) In addition, the Superintendency of Private Insurance applies 21 indexes, which serve as an early warning system. The majority of the indexes are based on the IRIS System, with some modifications introduced by the Superintendency.

(2) The ACTMGC corresponds to the assets capable of covering the MGC required. The MGC is equal to the Gross Solvency Requirement (GSR) minus Deductions. Deductions are mainly determined by the balances of the equalisation reserve and the catastrophic risk reserve. The GSR is equal to the capital required for probable deviations in the retained losses and/or adverse fluctuations in the price of those assets in which the technical reserves are invested. Considering that the reinsurers' quality may affect the insurers' solvency, the regulation establishes a "reinsurer quality weight" which applies to the GSR on every line.

(3) For property and casualty, whichever is the greater of:

- a) 18% of Net premium Written for the first C$ 50 000 000 plus 16% of the excess multiplied by the resulting factor obtained by dividing Net Retained Incurred Losses by Gross Incurred Losses, which cannot be less than 50%.
- b) 26% of one third of the sum of Gross Incurred Losses for the last three years up to C$ 35 000 000 plus 23% the excess, multiplied by the resulting factor obtained by dividing Net Retained Incurred Losses by Gross Incurred Losses, which cannot be less than 50%.

For life insurance, the sum of:

- a) 4% of Technical Provisions for Direct Insurance Written multiplied by the resulting factor of dividing Net Technical Provisions (net of reinsurance) by Gross Technical Provisions (gross of reinsurance), this ratio can never be less than 50%.
- b) 0.3% (0.15% is used for terms policies of 5 years or less) of Net Sums Insured (net of reinsurance) multiplied by the resulting factor of dividing Net Sums Insured by Gross Sums Insured, this ratio can never be less than 50%.
- c) Using the formula for property and casualty for additional coverages.

(4) The following reserves have to be constituted:

1. For individual life insurance, industrial life, life annuity, and pension plans, a one hundred percent (100%) of the mathematical reserve shall be estimated on every standing policy according to actuarial principles generally accepted. This calculation includes the reserves for dividends of the insured, for those plans with participation.
2. For collective life insurance, credit collective, disencumbrance mortgages, personal accidents, health and transportation of merchandise, a rate of no less than ten percent (10%) of the net cancellation premiums withheld during the twelve months prior to their valuation date.
3. For insurance of general branches, fire and related lines, maritime (hull), automobiles, civil responsibility, robbery, burglary, glass, mortuary, aircraft, diverse coverage, and bonds in general, thirty-five percent (35%) of the premiums withheld during the twelve months prior to the valuation date.
4. One hundred percent (100%) of the reserve corresponding to the amount of obligations caused by reinsurance net claims pending liquidation, or to be paid at the end of the fiscal year, notified or to be notified, plus the corresponding estimated costs.
5. A general reserve for statistics deviations of no less than one percent (1%) and up to two and one half percent (2.1/2%) for all branches estimated, based on the corresponding retained net premiums.
6. A reserve for catastrophic risks and/or contingencies of no less than one percent (1%) and up to two and one half percent (2.1/2%) for all branches, estimated based on the corresponding retained net premiums.
7. Reserves indicated by the Superintendence in specific cases, and deemed necessary for the sound operation of insurance companies.

Table 14 **Investment Regulation**

Country	Existence of Legislation Concerning Evaluation Method of Investments	Existence and Content of Investment Regulation	Admissibility of Portfolio Investment Abroad
Argentina	Y (net sales value except for retirement and life insurance)	Y There is a custody system. The investment instruments (bonds, shares, deposits, etc.) of insurers must be deposited in custody of authorised organisations, which must be banks with a rating of AA or better. These banks must monthly report to the National Insurance Superintendence details of movements in the portfolio of each insurer so that the Superintendence can supervise the movements and possession of investments and detect any irregularities on the part of insurers. Investments not kept in such a custody cannot be regarded as assets supporting the minimum capital and the commitments with insured.	Y (up to 30% of the minimum capital)
Bolivia	-	Y	Y (up to 50% of investment assets)
Brazil	Y (in general, the lower of cost or market value)	Y (In respect of technical reserves, admissible investments and maximum limit for each category of investments are stipulated)	Y (with the maximum limit depending on the liabilities in foreign currencies owed by each insurance company)
Chile	Y (in general, market value but, in the case of fixed income, internal rate of return is taken into account)	Y (In respect of the total of risk equity and technical reserves, the maximum limits are stipulated according to risk categories)	Y (the maximum proportional limits of the total of risk equity and technical reserves depends on the types of business (life or non-life) and the types of investments (non-residential urban real estate or others))
Colombia	Y (market value)	Y (Global and individual limits are stipulated in order to promote the diversification and dispersion of financial risks).	Y (up to a certain limit, but this limit is not yet stipulated)
Costa Rica	N	Y (The principle of "the best profitability and liquidity" is stipulated by the law, and the principle of "the security" is added)	Y (it is allowed although there are no portfolio investments abroad and there is no formal regulation)
Cuba	N	-	N
Ecuador	Y	Y (Principles of investment and maximum limit for each category of investments are stipulated in respect of technical reserves, paid-up capital and statutory reserve)	Y (up to 10% of technical reserves, paid-up capital and statutory reserve)
El Salvador	Y (the law allows the freedom to choose market value, acquisition cost or any other internationally accepted valuation)	Y (Admitted investments and maximum limit for each category of investments are stipulated)	Y (up to 20% of the total of technical reserves and minimum capital required)

Table 14 **Investment Regulation (continued)**

Guatemala	Y (historic value)	Y (Principles of investment, admissible investments and the following minimum limits are stipulated: a) at least 40% of total assets in government securities, b) at least 1% of total assets in deposits on demand/term, and c) the rest of up to 59% of total assets can be invested in real estate, shares, mortgage loans and other securities.)	N
Honduras	N	Y (Admissible investments are stipulated)	N (unless the authorisation of the Central Bank is obtained)
Mexico	Y (market value for shares, amortised value for bonds)	Y (Limits are stipulated based on categories of investments, categories of issuers and categories of reserves)	Y(1)
Nicaragua	Y (the lower of cost or market value)	Y (Principles of investment, admissible investments, maximum limits for each category of investments are stipulated)	Y(2)
Panama	Y (the lower of cost or market value for bonds)	Y (In respect of 75% of technical reserves, admissible investments are stipulated)	Y (up to 100% of minimum capital, up to 50% of capital in excess of minimum capital, and up to 25% of technical reserves)
Paraguay	-	Y (Admissible investments are stipulated)	Y (the permission of the Insurance Superintendence has to be obtained in each case)
Peru	Y (in principle, the lower of cost or market value)	Y (In respect of technical reserves, admissible investments and maximum limit for each category of investment are stipulated. A maturity matching requirement is stipulated)	Y (up to 30% of technical reserves)
Uruguay	Y (in principle, market value)	Y (The principle of investment, admissible investments and maximum limit for each category of investments are stipulated. Currency matching requirement is stipulated.)	Y (Foreign investments admitted must have an investment grade rating or superior. The maximum limit is up to 5% of minimum capital (CM), technical provisions (TP) and insurance liabilities (IL), and 20% of mathematical provisions. Exception: investments covering technical provisions and insurance liabilities of pension insurance policies should be located within a country.
Venezuela	Y (the lower of cost or market value)	Y (In respect of mathematical reserves, admissible investment and limit for each category of investments are stipulated. There is the following minimum limit: not less than 30% in public securities guaranteed by the nation, regional entities, municipalities, foreign governments (issued in bolivars) or Latin-American public companies.)	Y (without any maximum limits, however, these investments are not valid for technical reserve coverage (non-admitted assets)).

Notes: Y: Yes N: No

(1) Portfolio investments abroad are limited to certain money and capital market instruments, namely those securities denominated in foreign currency registered in the special section of the National Register of Securities and Intermediaries, and deposits and securities issued in foreign currencies payable abroad by Mexican financial entities or by foreign financial entities affiliated with these. The Ministry of Finance and Public Credit may authorise other securities issued by non-resident financial institutions.

(2) Foreign investments are admissible, if they are of such investment grade to fulfil the requirements applied to the international reserve of this country.

Table 15 **Reinsurance**

Country	Regulation or Supervision on Reinsurance Specialists	Regulation or Supervision on Reinsurance Arrangements	Cross-border Reinsurance Transactions	Domestic Retention Requirements
Argentina	Y	Y(1)	Y(2)	-
Bolivia	N(3)	-(4)	Y(5)	-
Brazil	Y(6)	Y(7)(8)	Y(8)	Y(8)
Chile	Y(9)	N	Y(10)	N
Colombia	Y(11)	Y(12)	Y(13)	N
Costa Rica	N(14)	N(14)	Y(14)	N(14)
Cuba	N(15)	N	Y	N
Ecuador	Y(9)	Y	Y	N
El Salvador	-(3)	Y(16)	Y(17)	Y(18)
Guatemala	-(3)	Y(19)	Y(20)	-
Honduras	-(3)	Y(21)	Y	-
Mexico	Y	Y	Y	N
Nicaragua	-(22)	Y(23)	Y	-
Panama	Y(11)	Y	Y	-
Paraguay	-(3)	Y	Y(24)	N
Peru	-(22)	Y(25)	Y(26)	-
Uruguay	-(22)	Y(27)	Y	N
Venezuela	Y(11)	Y(28)	Y(29)	N

Notes: Y: Yes N: No

(1) The National Insurance Superintendence observes every retention that exceeds 40% of the surplus in coverage of enforceable commitment and outstanding claims, or 15% of the net capital of company. The purpose is to have objective parameters to analyse uniformly the different retention/amount withheld by the insurance companies, and to ensure the adequate relationship between the retention level of the insurance companies and their capital and financial situation.

(2) Foreign reinsurers not registered with the National Insurance Superintendence have to be intermediated by a registered reinsurance broker and have to have an adequate rating by an international rating agency. Foreign reinsurers registered with the supervisory body have to present to the supervisory body the following documents every year:
- Latest balance sheet.
- An independent auditor's report or a report by the supervisory authority of the country of origin, where the equity should not be inferior to US$ 30 000 000.
- A statement by an attorney, where the remaining conditions required are expressed.

(3) In this country, there are no reinsurance specialists.

(4) The maximum retention limit is 15% of the solvency margin of each insurance company.

(5) All foreign reinsurances have to be registered.

(6) At present the Brazil Resseguros S.A. (IRB) basically monopolises the reinsurance operation in this country. After the opening-up of its reinsurance market, reinsurance specialists can be established with a special authorisation of the government. They will be subject to special rules on capital, retention, assets, technical provisions, solvency margin, administrators and financial reports. In general, these rules will be similar to the rules applied to direct insurers.

(7) After the opening-up of the reinsurance market, the Superintendency of Private Insurance will supervise reinsurance contracts afterwards based on information provided by insurance companies. In case there is equity participation of 30% or more of the voting capital between an insurer and a reinsurer, the Superintendency will supervise reinsurance contracts beforehand.

(8) The Brazil Resseguros S.A. (IRB) basically monopolises reinsurance operation in this country, although direct insurers can contract abroad in specific cases with the special permission of the supervisory body.

Even after the opening-up of the 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 accepted, the offer must be distributed according to their net worth. 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. The difference is that admitted reinsurers will be registered with the Superintendency of Private Insurance, with some control of the Superintendence, while occasional reinsurers will be subject to control through direct insurance companies only. In the case of occasional reinsurers, direct insurance companies will have to certify that reinsurers meet the minimum requirements.)

If an insurance company concludes a reinsurance contract with a local reinsurer, this insurance company can deduct the part of the reserves corresponding to this reinsurance contract. But if an insurance company concludes a reinsurance contract with an admitted reinsurer or an occasional reinsurer, this insurance company cannot deduct the reserves even if these reserves correspond to this reinsurance contract.

(9) Reinsurance specialists are in principle subject to the same regulation and supervision as direct insurers.

(10) Foreign reinsurers have to be registered with the Superintendence of Securities and Insurance. In 1999, 127 foreign reinsurers are registered.

(11) Reinsurance specialists have to be licensed.

(12) Insurance companies have to submit annually information on the main characteristic of treaties and, a list of reinsurers in order to verify their registration.

(13) Cross-border reinsurance transactions are allowed only with registered foreign reinsurers. To be registered in the "Foreign Reinsurers Register" of the Banking Superintendency , foreign reinsurers have to fulfil the minimum capital amounts and to be rated by rating agencies. The minimum ratings are as follows; BBB- (Srandard & Poor's), B+ (A.M.Best), BBB- (Duff and Phelps) and Baa3 (Moody's). Reserves on premium ceded to foreign reinsurers are required so that they can contribute to the liquidity of local insurers in the case of claims.

(14) In this country, insurance business is monopolised by the State entity, and this State monopoly concludes reinsurance contracts with foreign reinsurers which are not established in this country.

(15) There are only two branches of foreign reinsurance specialists, which at present do not carry out operations.

(16) Insurance companies have to establish maximum and minimum retention limits which will be applied during a specific year, taking into account the volume of business, the amount of resources and their experience in respect of claims handling. They have to inform the Superintendence of Financial System of their respective limits.

(17) Foreign reinsurers must be registered with the Superintendence of Financial System. To be registered, they must provide information given by their home country supervisory authority about their legal status and information about its rating given by an internationally known rating agency. In addition, they must provide financial information of their last three years' activity and information about the type of reinsurance they are allowed to provide in their home country.

(18) Retention and cession requirements are applied only in the case of catastrophic earthquakes.

(19) There is a regulation related to the maximum retention limits. Percentages are as follows:

Fire and Allied Lines 8%
Marine Cargo 5%
Auto 2%
Others 3%

Insurance companies can retain in excess of these percentages but they have to cover it by an excess of loss treaty.

(20) Foreign reinsurers must be registered with the Superintendence of Banks.

(21) There are the following maximum retention limits in this country: 45% in non-life and guarantees and 40% in group life. Insurance companies must conclude reinsurance contracts with reinsurers which have the ratings of BBB+ or better. Insurance companies must monthly inform the National Commission of Banking and Insurance of reinsurers with whom they have concluded contracts.

(22) In this country, there are no reinsurance specialists. If there were a reinsurance specialist, it would be in principle subject to the same regulation and supervision as direct insurers.

(23) The laws stipulate the following maximum retention limits by line of business:

(i) For property and casualty companies operating for three years or less, the maximum retention is 5% of paid-in capital and capital reserves, and for companies operating for more than three years, the maximum retention is 5% of paid-in capital and capital reserves plus 10% of the average yearly profit for the previous three years.

(ii) For life companies operating for three years or less, the maximum retention is 1.5% of paid-in capital and capital reserves, and for companies operating for more than three years, the maximum retention is 1.5% of paid-in capital and capital reserves plus 5% of the average yearly profit for the previous three years.

Insurance companies have to provide copies of all reinsurance contracts and financial statements of reinsurers in order to review the quality of the reinsurers. This process is conducted in a very informal way, because there are no minimum standards stipulated for admitted reinsurers.

(24) Local insurers must register foreign reinsurers at the Insurance Superintendence before the transactions.

(25) The Superintendency of Banking and Insurance supervises the acceptance or cession policy of insurance companies in order to ensure that their retention levels fit their corporate or equity capacity.

(26) Foreign reinsurers must be registered with the Superintendency of Banking and Insurance or rated as non-vulnerable by at least one internationally well-known rating agency.

(27) For solvency margin requirements, the maximum cession accepted is 50%.

(28) Insurance and reinsurance companies have to submit to the Superintendence of Insurance, on an annual basis, a summary of economic characteristics of reinsurance and retrocession contracts. The Superintendence will study the conditions of the reinsurance contracts. In case any of them are considered as inappropriate, insurance companies are required to explain economic and technical reasons to conclude such contracts. If the explanation does not fully justify the existence of such contracts, the Superintendence will require the adoption of appropriate measurers to correct the situations, and may apply penalties stipulated in the law.

(29) This country allows cross-border reinsurance transactions. However, if these transactions are made with reinsurers not registered in the Reinsurance Register of the Superintendence of Insurance, the ceding companies will not be allowed to deduct, from the technical reserves, the portion corresponding to the ceded risk.

Table 16 **Supervision on Policy Conditions and Premium Rates**

Country	Existence of Supervision (*)		Classes of Insurance Supervised	Comments
	Policy Conditions	Premium Rates		
Argentina	Y[1]	Y[1]	-	
Bolivia	Y[2]	N[3]	General insurance, guarantee, personal insurance	
Brazil	Y	Y	All classes	For compulsory classes of insurance, policy conditions and premium rates are determined by the Superintendence of Private Insurance.
Chile	Y[4]	N[5]	All classes	In non-life insurance, policy conditions are not necessarily registered if the insured and beneficiaries are legal persons and the annual premium is higher than U.F. 200 (approximately US$ 5.870 on 31 May 2000).
Colombia	Y[6]	Y[7]	All classes	For compulsory insurance (traffic road accident), the Banking Superintendency determines the policy conditions and premium rates.
Costa Rica	N[8]	N[8]	None	
Cuba	Y[9]	Y[9]	-	
Ecuador	Y[10]	Y[10]	All classes	
El Salvador	Y[1]	Y[11]	All classes	
Guatemala	Y[1]	Y[12]	All classes	
Honduras	Y[13]	Y[13]	All classes	
Mexico	Y[14]	Y[15]	All classes	
Nicaragua	Y[1]	Y[1]	All classes	
Panama	Y[1]	N[16]	All classes	
Paraguay	Y[17]	N[3]	All classes	
Peru	Y[18]	Y[18]	-	
Uruguay	Y[19]	N[3]	-	
Venezuela	Y[1]	Y[1]	-	

Notes: Y: Yes N: No

(*) In this table, the “existence of supervision” means whether new products are subject to supervision in respect of their policy conditions and/or premium rates when they are launched.

(1) Prior approval.

(2) Through regular inspection.

(3) The determination of premium rates is free, except for life insurance which is based on technical basis.

(4) Policy conditions must be only registered with the Superintendence of Securities and Insurance. Nevertheless the Superintendence reviews whether the text and wordings do not lead to error or confusion, or breach the law. Once policy conditions are registered, any other insurance companies can use them without any consultation with the Superintendence.

(5) Insurance companies can freely fix premium rates without any intervention by the Superintendence.

(6) No prior approval is required. Insurance companies are free to send to the Banking Superintendency a copy of policy conditions before or after they start to use them. For registration purposes, however, it is advisable to send it before using them. The Superintendence can check them at any moment, and in the case of abusive clauses can suspend the sale of such products.

(7) No prior approval is required. At any moment, the Banking Superintendence can require insurance companies to indicate premium rates in order to verify the compliance with actuarial and statistical principles.

(8) At present, there is no insurance supervisory body in this country.

(9) No prior approval is required. Policy conditions and premium rates have to be submitted to the Insurance Superintendency respectively not less than 60 or 30 days before their use.

(10) Prior approval or "file and use".

(11) Premium rates are reviewed only to ensure that they can cover future claims. The rest is left to the market.

(12) For non-life insurance, insurance companies can freely set premium rates above the minimum premium rates authorised by the Superintendence of Banks. For life insurance, premium rates are fixed by the Superintendence. Insurance companies have to get approval for any modification which they wish to introduce.

(13) Policy conditions and premium rates are subject to the prior approval of the Secretariat of Economy and Treasury, which hears the opinion of the National Commission of Banking and Insurance.

(14) For all classes of insurance, new policy conditions have to be registered with the supervisory authority at the same time that insurance companies start to use them. If within 30 days the supervisory authority regards them as inappropriate on technical grounds, they have to be recalled from the market.

(15) Insurance companies must submit technical information to the insurance supervisory body at the same time that they start to use new premium rates. The authority does not supervise the amount of premiums itself, but it supervises the sufficiency of reserves which such premium rates presuppose.

(16) Premium rates must comply with conditions stipulated by the Law. But they are not subject to any prior approval, "file and use" and "use and file".

(17) Registration with the Insurance Superintendence.

(18) "file and use"

(19) "file and use". The Superintendence of Insurance and Reinsurance analyses policy conditions. If there is something incongruous or unacceptable, the Superintendence requires insurance companies to make necessary modifications.

Table 17 **Claims Data Collection on a Broader Basis**

Country	Existence of Collecting Body[1]	Classes of Insurance
Argentina	Y[2] National Insurance Superintendence	Automobile insurance Workers compensation
Bolivia	Y Supervision of Pensions, Securities and Insurance	General insurance and guarantee
Brazil	Y Superintendency of Private Insurance	Automobile insurance Property insurance
Chile	Y[3] Superintendence of Securities and Insurance Chilean Insurance Companies Association	Life annuities Non-life insurance
Colombia	-[4]	
Costa Rica	N	
Cuba	-	
Ecuador	-	
El Salvador	-	
Guatemala	Y[5] Superintendence of Banks	All classes of insurance
Honduras	Y[6] National Commission of Banking and Insurance	-
Mexico	Y Insurance and Sureties National Commission Mexican Association of Insurance Institutions	-
Nicaragua	-	
Panama	Y[7] Insurance and Reinsurance Superintendence	-
Paraguay	N	
Peru	N[8]	
Uruguay	Y Superintendence of Insurance and Reinsurance	Pension insurance[9]
Venezuela	-	

Notes: Y: Yes N: No

(1) The "existence of collecting body" means whether claims data, such as loss frequency and loss severity, of individual insurers can be shared through a single body so that adequate premium rates can be calculated on a broader statistical basis.

(2) There is no private institution that compiles sufficient data. Nevertheless there are some actuarial research developments that have begun to collect statistical information on specific insurance fields. This information is voluntarily submitted.

(3) The Superintendence of Securities and Insurance collects data on life annuities, and the Chilean Insurance Companies Association collects data on non-life insurance.

(4) Insurance companies can collect information from the Banking Superintendency or their association.

(5) All statistical information about claims is included in annual statistical bulletin issued by the Superintendence of Banks. It includes all claims within a domestic market of all insurance companies.

(6) The statistics department of the National Commission of Banking and Insurance issues monthly an information bulletin which contains information on claims.

(7) The Insurance and Reinsurance Superintendence publishes an informative bulletin every year, which contains all pertaining information. There is no restriction for insurance companies on sharing information.

(8) Insurance companies submit claims information to the Superintendency of Banking and Insurance on a monthly basis. However, at present, there is no requirement for information concerning the frequency and severity of such losses.

(9) For pension insurance, claims data such as loss frequency and loss severity are available. For other classes of insurance, technical information available does not include loss frequency and loss severity.

Table 18 **Actuary**

Country	Obligatory Appointment of Actuary(*)	Minimum Conditions	Statutory Duties of Actuary(**)	Formal Relationship between Actuary and Supervisory Authority
Argentina	Y	– to be registered in the Actuaries Record at the National Insurance Superintendence – to have at least one year experience – to perform his/her duty as an independent actuary or as a member of actuaries' association properly registered with the Professional Council of Economics Science	– to prepare an actuarial report which states, at least, if technical reserves fulfil the requirements of the bylaws on technical basis approved by the National Insurance Superintendence and if they are sufficient to meet previous liabilities towards the policyholders – to prepare an actuarial report certifying that technical reserves fulfil regulatory requirements, in respect of collective disability and death insurance, workers compensation insurance and retirement insurance on pension-related life annuity	Y(1)
Bolivia	Y(life)	– to certify the suitability and/or experience in this field – to have a professional title in actuarial or relevant fields – not to have any incapacity or incompatibility stipulated by the law – to be registered with the national commerce registry (SENAREC)	– to calculate premiums and mathematical reserves – to provide technical support	Y(2)
Brazil	Y (all classes of insurance)	– to be graduated in actuarial science	– to calculate premium rates (insurance companies must submit to the Superintendency of Private Insurance the criteria to calculate premium rates, which must be signed by an actuary) – to calculate technical provisions – to sign the balance sheet and the actuarial papers	N(3)
Chile	N(4)	none	none	N(5)
Colombia	Y(life)	none	– to sign the document related to mathematical reserves to be submitted twice a year – to prepare an actuarial study related to premium rates	N

Table 18 **Actuary (continued)**

Costa Rica	N[6]	– to have a university degree – to be a member of a professional association – to have expertise in the insurance business – to have ample knowledge in computing – to have broad experience in the actuarial field	– to develop highly complex and technical studies in the actuarial field, besides developing studies related to tariffs for existing or new plans – to develop statistical studies related to data that influence the variables of the financial structure for insurance plans – to develop mathematical actuarial calculation – to prepare all the documentation related to the process and results of each investigation project – to advise other entities in relation with his/her speciality and participate in the development of new products, coverages, and modifications to existing plans, also emit opinions in the actuarial field – to collaborate in the development and analysis of new models for premium calculation	-
Cuba	N[7]	–	–	-
Ecuador	N	–	–	-
El Salvador	Y(life)	–	– to certify mathematical reserves – to verify technical notes – to approve the technical content of products – to develop the mathematical content of life insurance	N
Guatemala	N	–	–	–
Honduras	N	–	–	–
Mexico	N	–	–	–
Nicaragua	Y[8]	none	– to justify premium rates, loss expectation, technical provisions etc. for new (or changed) insurance products	-
Panama	Y(life)	– not to have any direct or indirect interests in an insurance company for which an actuary provides professional services	– to verify the calculation and presentation of mathematical reserves	-

Table 18 **Actuary (continued)**

Paraguay	N	–	–	–
Peru	N[9]	–	–	–
Uruguay	N	–	–	–
Venezuela	Y	– to have an actuarial science degree from a recognised university – to be registered with the Actuary Register of the Superintendence of Insurance – not to have any direct or indirect dependence relationship with the insurance company for which the verification is to be made	– to certify premium rates – to certify technical reserves – to conduct actuarial studies	Y[10]

Notes: Y: Yes N: No

(*) This column indicates whether it is obligatory for an insurer to appoint an actuary.

(**) For countries where the appointment of an actuary is not obligatory, this column indicates the actual duties of an actuary.

(1) Actuaries must be registered with the Professional Council of Economics Science, which will inform the National Insurance Superintendence of their registration so that they can be registered in the Actuaries Record at the National Insurance Superintendence.

(2) Mathematical actuaries must periodically provide the Supervision of Pensions, Securities and Insurance with information on the calculation of mathematical reserves of insurance companies operating long-term life insurance.

(3) There is no formal relationship between an actuarial association and the Superintendency of Private Insurance. However, the Superintendency has established the Actuarial Committee where members of insurance companies and of the Actuarial Council discuss improvements in legislation.

(4) Life and non-life insurance companies are not required to appoint an actuary. However, it is common practice that life insurance companies work with an actuary.

(5) There is no formal relationship between actuaries and the Superintendence of Securities and Insurance. However, on some special occasions, there are meetings with them, for example to analyse a new mortality table for life annuities.

(6) There is no obligation to designate an actuary. Nevertheless, the State monopoly has several actuaries.

(7) It is not obligatory for insurance companies to appoint an actuary. Nevertheless, it is stipulated by the law that the insurance companies and the mutual societies are not allowed to carry out operations which are not based on actuarial calculation.

(8) For the licensing process of an insurance company, it is required that the name of an actuary be specified. For submission of new (or changes to be approved) insurance products, insurance companies must present the actuarial justification of premium rates, loss expectation, technical provisions, etc.

(9) It is not mandatory for insurance companies to appoint an actuary. However, at present some life and non-life insurance companies use the services of an actuary.

(10) Actuaries must be registered with the Actuary Register of the Superintendence of Insurance.

Table 19 **Auditor**

Country	Obligatory Appointment Auditor(*)	Minimum Conditions	Statutory Duties of Auditor	Formal Relationship between Auditor and Supervisory Authority
Argentina	Y	– to be registered in the Record of External Auditors at the National Insurance Superintendence – to be registered with the Professional Council of Economic Science	– to submit to insurance companies the following documents: ▪ financial statement report (annual) ▪ report on internal accounting control (annual) ▪ special report on reinsurance contracts (annual) ▪ limited revision report for a period shorter than one year ▪ special report verifying minimum capital rules set by the National Insurance Superintendence (quarterly) ▪ special report endorsing the coverage of enforceable commitment and outstanding claims statement (monthly)	Y(1)
Bolivia	Y	– to be registered with the Supervision of Pensions, Securities and Insurance	–	Y
Brazil	Y	– to be registered with the Brazilian Federal Securities and Exchange Commission and its own Council – to be graduated in accounting	–	N(2)
Chile	Y	In the case of auditing firms, their administrators, main partners and any other staff engaged in auditing and those who sign up audit reports must fulfil the same requirements as external auditors. At least 50% of share capital of auditing firms should be formed by main partners or staff working as external auditors. Main partners are defined as persons with at least 10% of shareholders' rights.	External auditors must prepare annual financial statements. They must conduct in a way defined in the regulation the following annual evaluation: products, reinsurance, technical reserves, claims, equity, investments, operations covering financial risk, matching, and internal process and system. Special emphasis must be put on investments and technical reverses. External auditors must issue an analysis report of the design and operation of the internal control structure.	Y(3)

Table 19 **Auditor (continued)**

Chile (cont)		– to have at least 5 years' professional experience – to be able to dispose freely of their own property and not to be guilty of any crime – to be registered with the Superintendence of Securities and Insurance – to be independent of audited entities. They cannot be directly or indirectly owners of more than 3% of the share capital of such entities. Monthly income of external auditors coming directly or indirectly from the same client cannot exceed 15% of their total monthly income.	–	
Colombia	Y	– to be graduated as public accountant – to be appointed by the annual general meeting – to be registered with the Banking Superintendency	– to prepare annual auditing report – to check quarterly statements – to inform the Superintendency of any situation considered as irregular	Y(4)
Costa Rica	Y	–	– to ensure that the administrator in charge promptly and faithfully executes the agreements and resolutions of the Board of Governors. – to ensure that the general ongoing of business and administration is in accordance with the respective laws and bylaws. – to perform audits and inspections partial or general of all businesses related to the State monopoly with the frequency and profoundness that the subject requires. – to co-sign all documents issued by the State monopoly and to jointly sign with the administrator and chief accountant the balance and other financial statements that are to be made public.	N
Cuba	Y	–	–	-
Ecuador	Y	–	–	-

Table 19 **Auditor (continued)**

El Salvador	Y(5)	– to be registered within the National Auditing and Accounting Board – to meet the American SAS regarding independence and technical capacity – to have experience of at least 5 years as external auditor – to have a clean legal record – to have a clean credit record – in the case of an auditing firm, to be legally registered and have as main activity external auditing services. In order to be registered with the Superintendence, external auditors must also present personal data and documentation, including the name of an international company with which they have a contract, and a signed declaration that all the information is true.	To prepare an auditing report that, as a minimum, must include: – evaluation of technical reserves – evaluation of risk assets – evaluation of procedures to determine insiders loans, capital solvency requirements, investment limits, and to determine compliance with laws. – evaluations of investment, loan and reinsurance – reviews of board minutes and written communication with the Superintendence. – verifications of cash allowance, investment, portfolio, production, reinsurance, claims, contingencies, expenditures, and recoveries – review of the management information system – evaluation of internal controls	Y(6)
Guatemala	Y	–	– to check annual accounts	N
Honduras	Y(7)	– to be registered with the National Commission of Banking and Insurance – to ensure that the auditing firm is not a shareholder of the audited company, neither has direct or indirect liability against the audited company – not to be involved in any circumstance that could affect their independence – to ensure that the revenue from services provided to the contracting institution or their related institutions does not exceed 25% of their annual total revenue Requirements for the registration with the National Commission of Banking and Insurance – the external auditing firm should be legally incorporated in the country	–	Y(8)

Table 19 **Auditor (continued)**

Honduras (cont)		– the auditing firm should have professional and qualified senior staff in order to conduct audits and prepare the reports – the external auditors should certify that they are independent of the audited companies – no criminal or civil action exists against the auditing firm or its shareholders in respect of their professional or commercial activities – the auditing firm or its shareholders have not been declared in bankruptcy or rehabilitated – the solvency of the auditing firm is not in danger	–	–
Mexico	Y	– to have five years' experience – to have a university degree – to pass an exam of the Insurance and Sureties National Commission	– to verify the valuation and sufficiency of technical provisions	–
Nicaragua	Y[9]	No specific minimum requirements are defined (preferably CPA or Certified Auditor)	– to verify the accuracy of financial statements	–
Panama	Y	–	– to certify balance sheets	–
Paraguay	Y	The minimum qualifications necessary to obtain the auditor license are as follows: – to have an economics or accountancy degree; and – to present a policy of "Guarantee of Acting Professional Labour" of the value of US$ 25.000. In the case of auditing firms, partners responsible for the audit works have to fulfil the same requirements.	– to present an opinion on financial statements and his/her corresponding notes according to the regulations – to ensure that these financial statements show the financial situation of the insurance company and the result of the operations	–

Table 19 **Auditor (continued)**

Peru	Y[10]	– to be registered with and appear as active in the Auditing Firms Unique Registry (RUNSA) – to have the experience, infrastructure, human and technical resources adequate for the volume and complexity of the company's business – not to have been penalised by the Superintendency of Banking and Insurance (SBS) due to omission or non-compliance with its independent auditing regulations – not to have been penalised by any organisation for unsatisfactory work – not to have any direct or indirect ownership or business links or relationship with the company or legal entities forming part of the conglomerate to which the company where they work belongs, nor with its shareholders or partners, directors, managers, legal representatives or main officials. All in accordance with the regulations issued by SBS – not to have any debt with the company being audited – to fulfil any other requirements prescribed by SBS	– to evaluate the reasonableness of individual financial statements and of the entire operation of the internal control system – to evaluate the reasonableness of consolidated financial statements whenever applicable	Y[11]
Uruguay	Y	– to be registered with the Superintendence of Insurance and Reinsurance – to have a professional qualification (a university degree), audit experience and a good reputation	–	Y[12]
Venezuela	Y[13]	– to be registered in the External Auditors Register of the Superintendence of Insurance	– to certify financial statements	Y[14]

Notes: Y: Yes N: No (-): not available

(*) This column indicates whether it is obligatory for an insurer to appoint an auditor.

(1) External auditors must be registered with the Professional Council of Economics Science, which will inform the National Insurance Superintendence of their registration and any sanctions which may be taken against them.

(2) There is no formal relationship between auditors and the Superintendency of Private Insurance, although the Superintendency may ask specific questions to be answered by them and may request further information. The Superintendency has established the Auditing Committee, where members of the companies and of the Auditors Council discuss improvements in legislation.

(3) External auditors must be registered with the Superintendence of Securities and Insurance. The Superintendence can supervise external auditors' activities, regulate the content of their report, and request any additional information related to their functions. Additionally, the Superintendence can nominate external auditors with the purpose of working on specific matters with a special mission. External auditors nominated by the Superintendence must keep confidentiality in respect to documents and attachments of supervised entity.

(4) Auditors must be registered with the Banking Superintendency.

(5) It is obligatory for insurance companies to appoint both external and internal auditors. To ensure independence, the internal audit unit reports to the board of directors, and the chief of the internal audit unit must be a member of the audit committee of the institution.

The chief of the internal audit unit must be qualified, have at least 3 years of experience, and must have a clean credit and legal record (no convictions, etc.) if he/she is fired, it must be communicated to the Superintendence of Financial System.

The audit unit must elaborate an audit report, annually, which must be approved by the board of directors. A copy of it must be sent to the Superintendence and to the external auditor. The report must meet some requirements set by regulation, including the evaluation of internal control, the identification of relevant risk areas and a schedule of activities.

In addition, the audit unit must send to the Superintendence quarterly reports detailing how the schedule of activities is performed, the type of examinations performed, the main findings, recommended measures and their follow-up. Audit reports must be sent to the audit committee and then to the board of directors.

Furthermore, the audit unit must keep records for at least 10 years to back their conclusions so that supervisors and external auditors may check them and the measures taken to correct them.

The main duties of the internal audit unit are the following:

1. verify and assess the effectiveness and adequacy of internal controls, and of those of management, operational and accounting;
2. verify that risk assets are evaluated properly;
3. examine the computer systems;
4. verify budgets;
5. verify compliance with credit policies;
6. verify the inventory of documents;
7. verify compliance with laws and regulation;
8. verify balance accounts;
9. verify the truthfulness of the information sent to the Superintendence;
10. verify financial statements and notes to be published;
11. review those operations corresponding to premiums, claims, reinsurance, investment, and contingencies. In addition, they must verify those figures of reinsurance, technical reserve calculations, minimum capital and solvency margin.

(6) There is a formal relationship between an external auditor and the Superintendence of Financial System. The external auditor has to be registered with the Superintendency. The auditor must send to the Superintendence, within a month of being appointed, his/her auditing report, as well as a copy of the auditing report and the results of the internal control exam. The auditor must also inform the Superintendency of any situation that can imply danger for the solvency, liquidity or stability of the audited institution. On the other hand, the Superintendence must provide information necessary for the auditor to do well his/her job and may provide assistance.

(7) It is obligatory for insurance companies to appoint both external and internal auditors. Internal auditors are employees of the insurance company that exercise the immediate supervision of its operations.

(8) External auditors have to be registered with the National Commission of Banking and Insurance. The National Commission can order, when necessary, the replacement of external auditors.

(9) It is obligatory for insurance companies to appoint both external and internal auditors. External auditors perform annual inspection verifying the accuracy of financial statements. Internal auditors are permanent employees of the insurance company and supervise day-to-day operations.

(10) Insurance companies must also have an Internal Audit Unit (IAU), whose main duty is the permanent evaluation of the operation of the internal control system. Organically, functionally and administratively, the Unit depends on the board of directors, to which it reports periodically, as well as to any other area the board may expressly designate to report to.

The internal auditor must be morally solvent and must have the knowledge and experience, which are suitable for the duties he/she performs in the unit. He/she must meet the following requirements:

- to have a professional degree with specialisation in topics similar to the duties of the IAU;

- to have at least three (3) years experience in auditing activities in companies of the financial or insurance systems; or have held related management positions in such companies for at least five (5) years;
- not to have a criminal record;
- not to be subject to one of the hindrances prescribed by the law;
- not to have been penalised by the Superintendency of Banking and Insurance (SBS) for serious or very serious infractions;
- not to have been penalised by any public or private organisation for any offence to the law, which, in the opinion of the SBS is considered to be serious or very serious;
- not to have any direct or indirect ownership or business links or relationship with the company or legal entities forming part of the conglomerate to which the company where he/she works belongs. Nor with its shareholders or partners, directors, managers, legal representatives or main officials, in accordance with the regulations issued by the SBS;
- not to find himself /herself in any situation which may limit his/her necessary independence in the undertaking of his/her duties; and
- to fulfil any other requirement which the SBS may set up.

The functions undertaken by the IAU must include, as a minimum, the following:

1. evaluation of the design, scope and performance of the internal control system, with emphasis on the adequate operation and independence of the risks unit;
2. evaluation of compliance with legal provisions applicable to the companies. This includes compliance with the law and its amendments and additions, regulations issued by the SBS, provisions or the bylaws, regulations issued by other competent supervisory and control organisations, and others;
3. evaluation of compliance with the accounting rules issued by the SBS and by the Comptroller General's Office, if applicable;
4. evaluation of the performance of the computer systems and mechanisms set forth by the company with respect to their security;
5. on-going co-ordination with the audit committee and the risks unit;
6. evaluation of compliance with policy and procedure manuals and other internal regulations of the company, proposing any modification, if necessary;
7. proposals of modifications to the internal auditing manual, submitting them for the consideration of the board of directors for its approval;
8. keep on-going tracking of the implementation of observations and recommendations presented by the SBS, independent auditors, as well as those originating from the IAU itself;
9. design of an annual working plan and its submission for the consideration of the board of directors for approval, as well as compliance with scheduled activities and preparation of any related reports;
10. carrying out unscheduled activities whenever necessary or on the express request of the shareholders' meetings or the board of directors or of the vice-presidents (managers), prior approval of the board of directors or audit committee, when the latter has been established;
11. keeping an updated file with all the manuals and other internal regulations of the company and any other document which may be prescribed by the SBS;
12. immediate simultaneous reporting to the audit committee and to the SBS, once the investigations of any significant events have been completed.
13. verification of the effectiveness of the internal controls implemented for a particular transaction or product, prior to its marketing;
14. evaluation of compliance with any aspects determined by the SBS; and,
15. any other task the company may establish.

(11) In the event that an auditing firm detects problems which would not allow the adequate examination of the company, the auditing firm must immediately report the circumstances to the SBS, indicating the reasons why such evaluation cannot be carried out.

(12) Auditors have to be registered with the Superintendence of Insurance and Reinsurance.

(13) The appointment of an internal auditor is not obligatory.

(14) External auditors have to be registered in the External Auditors Register of the Superintendence of Insurance.

Table 20 **Insurance Companies in Financial Difficulties**

Country	Reference to Solvency Margin	Feasibility of Portfolio Transfer
Argentina	-[(1)]	-[(2)]
Bolivia	-	Y
Brazil	-	Y[(3)]
Chile	Y	Y
Colombia	Y[(4)]	Y
Costa Rica	N[(5)]	-
Cuba	-	Y
Ecuador	-	Y
El Salvador	Y	Y
Guatemala	Y[(6)]	Y
Honduras	N[(7)]	N[(8)]
Mexico	Y	Y[(9)]
Nicaragua	Y[(10)]	Y
Panama	-	N
Paraguay	Y[(11)]	Y
Peru	-[(12)]	Y[(13)]
Uruguay	Y[(14)]	Y
Venezuela	Y	Y[(15)]

Notes: Y: Yes N: No

(1) When the minimum capital deficit exceeds 30% of the required capital, the National Insurance Superintendence must prohibit the insurance company from underwriting new contracts.

(2) There have been cases where insurance companies organised the portfolio transfer in a commercial way, which did not concern the National Insurance Superintendence.

(3) Portfolio transfer must be notified to the Superintendency of Private Insurance. After the actual bankruptcy, portfolio transfer is no longer allowed. This situation is at present under review.

(4) According to the experience of this country, the solvency margin itself is not the most important criterion to prevent the bankruptcy of insurance companies. The following aspects are of paramount importance; (i) the sufficiency of reserves, (ii) the adequacy of investments including matching and (iii) the nature and adequacy of reinsurance arrangement. The adoption of an early warning system is currently under study.

(5) In this country, solvency requirements have not yet been adopted.

(6) Solvency margin and equity capital are referred to.

(7) In this country, there are at present no solvency requirements. The new draft law, which is subject to the approval of the National Congress, will introduce solvency margin requirements and the minimum capital adequacy.

(8) This country has not yet experienced the bankruptcy of insurance companies. The current law does not consider this situation.

(9) The authorisation of the Ministry of Finance is required.

(10) The solvency index and the premiums written to equity ratio are the only indicators which are currently used. The new guidelines and indicators system are at present under study.

(11) When the deficit reaches 30% of own capital required by the solvency margin, the Insurance Superintendence prohibits insurance companies from issuing new policies.

(12) A directive on early warning system is currently being prepared. This could provide a systematic method to detect on a timely basis any irregularities related to insurance companies.

(13) The transfer of portfolio of an insolvent insurance company can be carried out by the liquidators.

(14) There are no guidelines indicating what kind of measures can be taken in what kind of circumstances. However, there is a proposed regime under approval.

(15) There have been no cases for portfolio transfer organised by the supervisory body. However, there is no legal impediment to do so.

Table 21 **Policyholders' Protection Fund**

Country	Existence	Classes of Insurance Covered
Argentina	Y	– pension retirement – workers' compensation
Bolivia	N	
Brazil	N	
Chile	N	
Colombia	Y	– pension – workers' compensation
Costa Rica	N	
Cuba	N	
Ecuador	N	
El Salvador	N	
Guatemala	N	
Honduras	N	
Mexico	N	
Nicaragua	N	
Panama	N	
Paraguay	N	
Peru	N	
Uruguay	N	
Venezuela	N	

Notes: Y: Yes N: No

(*) "Policyholders' Protection Fund" is here defined as funds/systems which will be triggered when an insurance company has either fallen into a critical condition which may result in its inability to pay the claims already filed or those to be made later, or has actually gone into liquidation.
The system can either pay claims directly (or through a separate company or organisation) to the policyholders based on the fund collected from insurance companies or from the government; or it can inject necessary money (again collected from insurance companies or government) into the failing company or into a separate insurance company who has agreed to take over the portfolio of the failing company.
There should always exist collection (either on a regular basis or on the spot basis) of fund from insurance companies (or even directly from policyholders) or from the government.

Table 22 **Liquidation Procedure of Bankrupt Insurance Companies**

Country	Preferential Status of Policyholders
Argentina	Y Policyholders or beneficiaries of life insurance have a preferential status on capital, any payment due or mathematical reserves at the same level as wages, salaries and remuneration. Claims in other insurance also have a preferential status.
Bolivia	-
Brazil	N There are special studies to change this situation, making it possible for policyholders to have a preferential status on the assets corresponding to technical reserves.
Chile	Y Reinsurance payments are distributed to insured who are directly linked to that reinsurance. In the case of life insurers with provident life annuities, the trustee is empowered to make such payments by disposing of investments.
Colombia	Y There is a preferential interest in the case of insurance related to social security system (pensions and workers compensation) as well as in the case of compulsory insurance (road traffic accidents).
Costa Rica	-
Cuba	-
Ecuador	Y Only for life insurance.
El Salvador	Y Policyholders' claims have priority.
Guatemala	-
Honduras	-
Mexico	Y In a liquidation process, the insured, beneficiaries and reinsurers have the character of creditors with special privileges compared with other creditors. Insured and beneficiaries have preferential status against reinsurers. Technical provisions of insurance companies and mutual societies should be allocated to insurance and reinsurance contract payments, and only in case there are surplus, this surplus will be distributed according to the provisions of the Bankruptcy and Payment Suspension Law.
Nicaragua	Y Policyholders' claims have priority over any other claimants.
Panama	Y Insured of individual life annuity policies have a privileged credit on any other, on the corresponding mathematical reserves.
Paraguay	Y In particular in the case of life-insurance.
Peru	Y Once the liquidation process of an insurance company has begun, the priority for payment of the company's obligations is as follows: Labour-related obligations must be paid first. Secondly, the following obligations must be paid: – credits due to the insured; – credits due to the reinsured from the reinsurance companies; – credits due to the reinsurance companies from the reinsured.
Uruguay	-
Venezuela	Y Policyholders have preferential right on assets that represent the mathematical reserves, the unearned premium reserves and the reserves for contingencies. These assets will be used primarily to satisfy policyholders' claims. Life insurance policyholders will have privilege on company's assets, with preference over unsecured creditors and up to the amount of the reserve.

Notes: Y: Yes N: No

Table 23 **Cases of Insurance Companies in Financial Difficulties for 1996 - 1998**

Country	Number of cases(*)
Argentina	About 42 case, where the National Insurance Superintendency has taken precautionary measures such as the prohibition of free disposal of assets and the prohibition or restriction of the acceptance of new business. These cases were caused by financial incapabilities, irregularities in management or accounting, the infringement of accounting rules. Of these cases, about 24 have resulted in compulsory liquidation where policyholders' interests were not fully satisfied.
Bolivia	Before July 1998, compulsory liquidation of 5 insurance companies took place. These cases were caused by poor management and a passive and inappropriate regulatory system of the previous administration. Policyholders suffered certain financial losses, in particular in long-term life insurance. Since July 1998, 7 insurance companies were dissolved (3 by voluntary liquidation, 3 through mergers, 1 by compulsory liquidation).
Brazil	45 cases caused by the insufficiency of technical provisions and/or the lack of liquidity. Many cases were solved by the sale of insurance companies concerned. Of these 45 cases, 8 cases are compulsory liquidation, where policyholders may have suffered financial losses.
Chile	3 cases, where the Superintendence of Securities and Insurance has ordered capital increase. In these 3 cases, the policyholders did not suffer financial losses.
Colombia	About 10 cases, where the Banking Superintendency has ordered capital increase. The main reasons for these cases were rapid growth and adverse loss experience. In addition to these cases, there are two cases (life and non-life insurance companies belonging to the same shareholders) where the Banking Superintendency has ordered compulsory liquidation. The main reasons of compulsory liquidation were the insufficiency of technical reserves due to financial reinsurance treaties and the recession of the economy. There is no information on whether in this compulsory liquidation policyholders have suffered financial losses.
Costa Rica	None.
Cuba	None.
Ecuador	One composite insurer has gone bankrupt because of the lack of liquidity. In this case, the policyholders have actually suffered financial losses.
El Salvador	One case, where the Superintendence of Financial System has ordered compulsory liquidation. This company had losses which caused its capital to fall below the minimum requirement. When it was ordered to inject capital, the shareholders did not do it. In addition, it had bad management and excessive administrative expenses. Because the liquidation process is not yet completed, the accurate amount of policyholders' financial losses cannot yet be calculated.
Guatemala	None.
Honduras	None.
Mexico	Four cases, where the Insurance and Sureties National Commission has ordered compulsory liquidation. All of them were caused by financial problems. Three insurance companies have already been liquidated and one is in process of liquidation. In all four intervention cases, the policyholders did not suffer, or will not suffer, financial losses, because they have preferential status in the liquidation process.

Table 23 **Cases of Insurance Companies in Financial Difficulties for 1996 – 1998 (continued)**

Nicaragua	None.
Panama	A few cases of intervention. At present, there is no information on whether the policyholders have suffered financial losses.
Paraguay	Seven cases, where the Insurance Superintendence has ordered compulsory liquidation. There are no reports on whether policyholders have suffered financial losses.
Peru	A series of corrective measures were taken through communications, resolutions, on-site inspection reports and other means. Insurance companies were requested to inform the Superintendency of Banking and Insurance of certain aspects, such as changes in their policies, or if applicable, the cancellation of certain types of transactions. Main reasons for these corrective measures are related to internal control, investment risk, technical risk, reinsurance risk, management and operational risk. Additionally, one insurance company was subject to the surveillance because of deficient management. This action led the company to replace its management team. Although these measures have been applied, no insurance company has been liquidated.
Uruguay	None.
Venezuela	Two cases. One of them belonged to a financial group which, due to the 1994 financial crisis, had losses equivalent to 94% of its capital. For this reason, the Financial Emergency Board decided to intervene in the group. Subsequently, the Superintendence of Insurance revoked the insurance company's license. The policyholders did not suffer financial losses. The other case was caused by potential bond execution (as collateral) in which the amount at risk might significantly affect the company's net worth. The Superintendence of Insurance declared a state of permanent inspection. However, because the causes that had originated the measure vanished, the inspection was discontinued.

Notes:

(*) The number of cases where the insurance supervisory body took measures in order to deal with insurance companies in financial difficulties before they go bankrupt or after they have gone bankrupt.

Table 24 **Cases of Insurance Companies in Financial Difficulties for 1996 – 1998 (Asian Economies)**

Country	Number of examples
Brunei	None
Hong Kong	73 interventionary measures on 35 insurers(1) One liquidation related to a branch of a foreign non-life insurer(2)
Indonesia	One case related to a non-life insurer(3)
Laos	None
Macau	None
Malaysia	One case related to a non-life insurer(4)
Philippines	None
Singapore	One case related to a life insurer(5)
Sri Lanka	None
Chinese Taipei	None
Thailand	One case related to non-life insurer(6) Some other insurers(7)
Vietnam	None

Notes:

(*) The number of cases where the insurance supervisory body actually took measures in order to deal with insurance companies in financial difficulties before they go bankrupt or after they have gone bankrupt.

(1) These measures include limitation of premium income, accelerated submission of accounts and restriction on related party transactions.

(2) The Insurance Authority petitioned the court for the winding up of the bankrupt insurer's Hong Kong branch in order to preserve the bankrupt insurer's assets in Hong Kong for protection of the local policyholders' interests in view of the liquidation proceedings taking place at its head office outside Hong Kong. No Hong Kong policyholders suffered financial loss in this case. The most difficult task or consideration of the Insurance Authority was the urgent need to appoint a special manager to take over the affairs of the insurer's Hong Kong operation and to assess the impact of its insolvency on the Hong Kong policyholders before considering petition to the court.

(3) The main cause was the failure to comply with the solvency margin stipulation.

(4) There was a case of a non-life insurer which failed to meet the minimum solvency margin requirement as of 31 December 1997. The company was required to submit a business and operating plan and a monthly status report to the Bank Negara Malaysia (BNM).

(5) One life insurer was required to raise additional capital in order to meet statutory requirements, although it was not on the verge of bankruptcy or insolvency. This was the result of funding new business strain. Policyholders did not suffer any financial loss. The most important consideration under such circumstances is safeguarding policyholders' interests.

(6) For this company, licence was revoked because of the financial failure. This company had to be liquidated. In this case, prior to the liquidation, transitional arrangement was made by transferring existing portfolio to 11 insurance companies. Nonetheless there were still a small number of policyholders who suffered financial losses.

(7) Thai economy has shrunk 0.4 percent in 1997 and will shrink 7-8 percent in 1998. The economic slowdown was attributable to liquidity problem. This liquidity problem affected some insurance companies, especially those whose main business is motor insurance. The Department of Insurance urged those companies to speed debt collection or sell their assets to obtain cash to ensure their financial stability. The Department closely supervised insurance companies, and supportive measures were introduced to ensure their financial stability. The early warning system has also been utilised to make the supervision more effective.

Table 25 **Compulsory Classes of Insurance**

Country	Classes of Compulsory Insurance	Specific Regulations
Argentina	▪ Workers' compensation ▪ Social Security(1) ▪ Compulsory driver's insurance (motor third party liability insurance) ▪ Collective compulsory life assurance ▪ Collective life assurance for the State personnel ▪ Compulsory insurance for sports tournament spectators ▪ Compulsory life assurance for fishing boat crew ▪ Collective compulsory life assurance for rural workers	The National Insurance Superintendence sets the policy conditions of compulsory driver's insurance.
Bolivia	▪ Social Security ▪ Compulsory insurance of traffic accidents (2)	The insurance Superintendence sets the policy conditions.
Brazil	▪ Personal damage for commercial airline passengers and vehicles ▪ Damage caused by goods transported ▪ Civil liability for aircrafts and air transporter owner ▪ Constructors' civil buildings liability in urban zones for damage to persons and things ▪ Assets tendered for financing or loan guarantee to public financial institutions ▪ Liability guarantee for constructors ▪ Mortgage guarantee insurance ▪ Buildings divided into autonomous units ▪ Fire and national transport for legal entities' personal belongings ▪ Crop credit ▪ Export credit, when judged convenient by the National Council of Private Insurance (CNSP) ▪ Civil liability for damage to transported goods. ▪ Motor third party liability insurance (DPVAT)(3) ▪ Compulsory insurance, somehow similar to DPVAT, but with higher indemnity, for third party motor insurance travelling in Mercosur area(4) ▪ Compulsory insurance for anyone who owns a boat or ship (DPEM) ▪ Household and mortgage insurance (SFH), for anyone who buys a financed house or apartment	All compulsory classes of insurance are subject to specific regulation in respect of their policy conditions and premium rates. For example, the policy conditions and premium rates are determined by the Superintendency of Private Insurance.
Chile	Compulsory personal accident insurance (CPAI) (5)	The policy conditions of CPAI are stipulated by the Law (each insurance company can freely decide its premium rate).

Table 25 **Compulsory Classes of Insurance (continued)**

Colombia	Compulsory road traffic accident insurance(6)	The Banking Superintendency determines the policy conditions and premium rates of this line. Non-life insurers authorised to operate this line are obliged to issue policies.
Costa Rica	▪ Labour risks ▪ Compulsory insurance for motor vehicles(7) ▪ Civil liability insurance(8) ▪ Aviation insurance ▪ Bonds(9)	
Cuba	None	
Ecuador	▪ Fire ▪ Electric energy users ▪ Import transport ▪ Customs guarantee ▪ Motor third party liability(10) ▪ Aviation third party liability	Compulsory classes of insurance are subject to specific regulations.
El Salvador	None(11)	
Guatemala	None(12)	
Honduras	Third party liability insurance for vehicles with diplomatic registration numbers	
Mexico	None(13)	
Nicaragua	Motor liability insurance(14)	
Panama	None(15)	
Paraguay	▪ Passengers of public transportation insurance ▪ International travels civil liability insurance(4)	
Peru	▪ Legal life insurance ▪ Complementary risky occupation insurance ▪ Public transport mandatory insurance	
Uruguay	▪ Pension insurance (retirement and disability or death insurance policy) ▪ Workers' compensation ▪ Aviation insurance ▪ Compulsory passenger insurance (international and inter-state transport) ▪ Fire and personal liability insurance for buildings (shared ownership)	Pension insurance has special supervision on policy conditions and technical provisions. Workers' compensation is still provided in a monopolistic way by the State-owned insurance company (Banco de Seguros del Estado) only.
Venezuela	Motor liability insurance	

Notes:

(1) It covers death, total and permanent disability risks for members of the Retirement and Pension Management.

(2) It has been introduced on 1 July 2000. After six months' implementation period, it will become compulsory on 1 January 2001.

(3) It covers only death and body injury (disability and medical expenses for any victim of an accident, including the driver).

(4) This insurance, called "carta verde" (green card), is a result of the agreement between all Mercosur members and is intended to cover accidents occurring outside the country where the car is registered. It covers death, bodily injury, property damages and legal expenses.

(5) The CPAI covers the risk of death and injury suffered as a consequence of accidents caused by the insured vehicle, its trailer or loads. It covers the driver of the vehicle, other persons transported in it as well as any other third parties. This insurance operates under a no-fault system. In other words, it is sufficient to prove that the deaths and/or injuries involved are the result of an accident. The driver's guilt does not have to be proven. The CPAI is not liability insurance but accident insurance.

(6) It covers the driver of the vehicle, other persons transported in it as well as any other third parties. This insurance does not cover property damages.

(7) The coverage for death and bodily injury of third parties is compulsory. The coverage for property damage of third parties is not compulsory.

(8) It is compulsory for motorcycle drivers under the legal age, private security, nursery schools, private schools and bullfights and public spectacles.

(9) It is compulsory for public transport license, nursery schools and private schools, supermarkets, ecology impact, food pension, pre-university schools, foreign representatives, custom and transportation, and license plates for car salesmen.

(10) It is compulsory, but not yet implemented.

(11) Compulsory motor insurance is stipulated by the Transit Laws. However, it has not yet come into effect.

(12) There is a law stipulating motor third party liability insurance, but this part of the law has not yet come into effect.

(13) However, there are some projects to introduce compulsory insurance.

(14) It covers both death and bodily injury and property damage.

(15) The Transit Law stipulates compulsory motor third party liability insurance, covering both death and bodily injury and property damage, for commercial vehicles, but it has not yet been implemented.

Table 26 **Insurance Distribution**

Country	Types of Intermediaries	Legislation on Intermediaries, in particular Insurance Brokers	Admissibility of Foreign Brokers
Argentina	3	Y	-
Bolivia	2.3	Y	Y(1)
Brazil	3(2)	Y	N(3)
Chile	2.3(2)	Y	N(4)
Colombia	1.2.3(5)	Y	Y(6)
Costa Rica	1.2	N	N
Cuba	2.3	Y	Y(7)
Ecuador	2.3	Y	Y(8)
El Salvador	1.3(9)	Y	Y(10)
Guatemala	2.3	Y	N(11)
Honduras	1.2.3	Y/N(12)	N
Mexico	1.2.3(13)	Y	N(14)
Nicaragua	1.2.3(15)	Y	N(16)
Panama	3	Y	N(17)
Paraguay	1.2.3	Y	Y(18)
Peru	1.2.3	Y	Y(19)
Uruguay	1.2.3	Y(20)	Y
Venezuela	2.3	Y	N(21)

Notes: Y: Yes N: No 1 Employees of Insurance Companies 2 Insurance Agents 3 Insurance Brokers

(1) Foreign brokers have to be registered with the Supervision of Pensions Securities and Insurance.
(2) Insurance companies may sell their products directly.
(3) In order to operate in Brazil, foreign insurance brokers must be resident in the country (in case of individuals) or establish branches or agencies in the country (in case of legal entities).
(4) Only foreign reinsurance brokers registered with the Superintendence of Securities and Insurance are allowed to operate in the country.
(5) Besides insurance agents and insurance agencies, there is another category of agents called "insurance agencies assimilated to brokers". The same legal requirements are applied to both insurance brokers and insurance agencies assimilated to brokers.
(6) Foreign insurance and reinsurance brokers are allowed to operate without restrictions.
(7) Foreign brokers participate in the reinsurance placement in the international market.
(8) Foreign brokers are active in reinsurance.
(9) There are two categories of brokers: independent brokers and brokers that are employees of insurance companies. A qualifying test is required for independent brokers only.
(10) Foreign brokers have to be registered with the Superintendence of Financial System. The registration procedure will be implemented shortly.
(11) Foreign brokers have to be incorporated in the country.
(12) Insurance legislation covers employees of insurance companies and insurance agents only. As independent retailers, insurance brokers are subject to the Commercial Code.
(13) In this country, "insurance broker" is understood as "insurance intermediary entity", which is covered by regulations on insurance agents.
(14) For foreign intermediaries, only the reinsurance operation through the establishment of a representative office in the country is allowed.
(15) In this country, agents are defined as direct employees of an insurance company who can represent that company only, and agencies are defined as legal entities formed by several agents who can represent one insurance company only. There is no employee-employer relationship between agencies and that insurance company. There are also sub-agents who work for insurance brokers.
(16) Legal representatives of foreign brokers must fulfil legal requirements applied to intermediaries.
(17) Legal representatives and shareholders of insurance brokers have to be insurance brokers registered in the country.
(18) Foreign brokers are active in international reinsurance market.
(19) Foreign brokers are allowed, if they are registered with the Superintendency of Banking and Insurance.
(20) Registration is required for reinsurance brokers only.
(21) Foreign brokers are not allowed to operate in the country. They can be shareholders of brokerage societies (corporate brokers) in the country.

Table 27 **Tax Incentives for Life Insurance Products**

Country	Existence and Content of Tax Incentives
Argentina	Y The Value Added Tax does not need to be paid for life insurance premiums. The Capital Gains Tax can be deducted up to approximately $1000.
Bolivia	Y The Value Added Tax does not need to be paid for long-term insurance premiums.
Brazil	Y The beneficiary does not need to pay income tax for indemnity (the insured must pay tax of 7% on premiums written).
Chile	Y The Value Added Tax (18%) does not need to be paid for life insurance policies. Indemnities from life insurance policies, credit life, child's endowment assurance or annuity not linked to social security are exempt from income tax.
Colombia	Y Members of voluntary pension plans can enjoy tax incentives, if they remain members for at least 5 years.
Costa Rica	Y Insurance premiums can be deducted from income tax. Benefits are not subject to income tax.
Cuba	N
Ecuador	Y Tax exemption for life insurance with investment elements.
El Salvador	N
Guatemala	Y All life insurance premiums can be deducted from annual income tax except certain types of insurance policies such as endowments or any similar.
Honduras	N
Mexico	N
Nicaragua	Y Life, health and personal accident insurance premiums are exempted from any sales tax and the payments made to beneficiaries are exempted from any type of taxes.
Panama	Y No tax is charged for earnings from life insurance policies with savings.
Paraguay	Y The Value Added Tax does not need to be paid for life insurance policies.
Peru	Y The following are exempted from the Value Added Tax: ▪ Life insurance policies issued by insurance companies legally incorporated in Peru, in accordance with regulations of the Superintendency of Banking and Insurance, provided the payment receipt is issued in the name of individuals resident in Peru. ▪ Life insurance premiums referred previous paragraph and insurance premiums for members of the Private Pension Fund Management System, which may have been assigned to reinsurance companies, whether or not domiciled in Peru. ▪ Services granted by insurance companies to workers who are members of the Private Pension Fund Management System and to their beneficiaries.
Uruguay	Y The Value Added Tax does not need to be paid for life insurance.
Venezuela	Y Claim payments of life insurance are exempted from tax.

Notes: Y: Yes N: No

Table 28 **Insurance Industry Associations : Self-regulatory Function**

Country	Existence		Existence of Self-regulatory Function[1]
	Insurers	Intermediaries	
Argentina	Y	Y	N
Bolivia	Y	-	N
Brazil	Y	Y	N
Chile	Y	Y	N
Colombia	Y	-	N
Costa Rica	N	-	-
Cuba	N	N	N
Ecuador	Y	Y	-
El Salvador	Y	-	N
Guatemala	Y	-	N
Honduras	Y	-	N
Mexico	Y	-	N
Nicaragua	Y	Y	N
Panama	Y	Y	-
Paraguay	Y	Y	-
Peru	Y	-	N[2]
Uruguay	Y	-	N
Venezuela	Y	-	N

Notes: Y: Yes N: No

(1) Typical examples of self-regulatory functions are as follows: the setting of codes of practice, the setting of registration requirements of insurance intermediaries, the registration of insurance intermediaries, etc.

(2) One of the objectives of the Peruvian Association of Insurance Companies is to promote business ethics and transparency in the activities and processes of the insurance industry.

Table 29 **Future Co-operation with OECD**

Country	Items/Issues	Modality	Importance
Argentina			The National Insurance superintendence has engaged itself in a process of modernisation and restructuring in terms of its internal functioning as well as the control of insurance entities. In this sense, the international experience becomes very important when obtaining legislative information, specific control methods, etc. that serve as a benchmark and a reference point for the existing international experience. Consequently, the OECD can potentially play a very important role.
Bolivia	▪ Systems of financial, technical and legal supervision ▪ Early warning system ▪ Systems of Liquidation and Bankruptcy ▪ Financial indicators ▪ Ratios on technical results ▪ Systems of sanction ▪ Programs of staff exchange and technical assistance ▪ Programs of constant training on insurance legislation ▪ Insurance accounting principles applied in Latin American countries ▪ Regulations of audit applicable to the insurance activities (specific) ▪ Systems for strengthening the insurance supervisory body		
Brazil	▪ Financial reinsurance ▪ Annuities products ▪ Compulsory motor third party liability insurance	Courses	
Chile	▪ Reinsurance ▪ Actuarial matters ▪ Agricultural insurance ▪ Catastrophic risk of earthquakes		We consider it useful to receive technical assistance on these subjects through foreign experts.

Table 29 **Future Co-operation with OECD (continued)**

Colombia	–	–	–
Costa Rica		Technical assistance, seminars, training	
Cuba	▪ Financial guarantees at the beginning of and during the activity ▪ Technical provisions and their confirmation methods ▪ Other financial guarantees ▪ Control of the bases or technical notes of life and non-life insurance ▪ Inspection in the insurance ▪ Initiation, procedure and termination of the inspection ▪ Elements of the Insurance Contract Law	This co-operation could be by means of the combination of technical assistance and training in foreign supervisory authorities with bigger experience and development.	
Ecuador		Training in on-site and off-site supervision	
El Salvador	▪ Impact that the new private pension funds have over the insurance industry in Latin America ▪ Reinsurance business in general, including the types of contract, their assessment of tariff and those procedures to administer their risks.	Technical assistance, in particular staff training	
Guatemala	▪ Solvency ▪ Capital requirements ▪ Structure of insurance contracts ▪ Insurance legislation reform in emerging markets	Seminars and conferences as well as a close collaboration between OECD Member countries and Latin-American countries.	
Honduras			Due to the modernisation of insurance legislation and the development of the insurance industry in the country, it would be valuable to co-operate with the OECD, which could provide staff training and the design of effective supervisory strategies in order to ensure the efficiency and solvency of the insurance companies as a safeguard of public interests.

Table 29 **Future Co-operation with OECD (continued)**

Nicaragua			The Insurance Commissioner's office is initiating a complete review and analysis of the Latin American insurance laws, in order to develop a more modern and appropriate set of laws and regulations for the insurance industry in Nicaragua. It would be our pleasure to co-operate with the OECD in any way possible in order to enrich and help the progress of the insurance regulations in Latin America. This office would use all technical assistance that the OECD could provide us in the process of developing laws, regulations and early warning systems for improving the regulatory function of this office.
Panama	-	-	-
Paraguay	-	-	-
Peru	-	-	-
Uruguay		▪ Determining elements that contribute to a major development of the insurance sector, both the supply and demand side, and what the supervisor can do in order to promote and encourage such development ▪ Providing best practices in disclosure of insurance market information, taking into account benefits and costs of disclosure model adopted ▪ Providing training orientation to the supervisory body staff, and human resources policies ▪ Giving support for the development of insurance products with social impact, such as health insurance, agricultural insurance, etc. ▪ Providing new practices in insurance regulation: latest trends in solvency requirements, accounting rules, etc.	
Venezuela			It would be desirable to establish a dialogue between the OECD and the ASSAL in order to co-ordinate technical assistance, harmonise alternatives, etc.

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