

Federation Council approves bill allowing foreign insurers to operate branches in Russia (within framework of WTO)

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We previously [reported](#) on the discussion of a bill amending the Russian Law “On Organisation of Insurance Business”, which would allow foreign legal entities to carry out insurance activities in Russia through branches within the framework of the WTO (the “Bill”). The Federation Council approved this Bill on 23 June 2021. In an article, we outline the main requirements to foreign insurers set forth in the final version of the Bill.

Licensing of foreign insurers and accreditation of their branches

Previously, it had been repeatedly discussed that branches of foreign insurers should not be licensed, but accredited. Nevertheless, the version of the Bill adopted in the third reading stipulates that insurance activities of a foreign company in Russia through its branch are subject to licensing. In addition, branches of foreign insurers licensed to carry out insurance activities in Russia must be accredited. Applications for a licence and accreditation of a branch are to be sent to the Bank of Russia at the same time.

Both the decision on granting a licence to carry out the respective type of insurance activities and the decision on the subsequent accreditation of a foreign insurer’s branch are taken by the Bank of Russia and are confirmed by an entry in the Unified State Register of Insurance Entities. Information about the branches of foreign insurers is entered into the State Register of Accredited Branches and Representative Offices of Foreign Legal Entities.

Being licensed will allow the foreign insurer to carry out through its Russian branch voluntary life and personal insurance, voluntary property insurance and compulsory motor third party liability insurance (“OSAGO”).

The condition for a foreign insurer to carry out insurance activities in Russia is an information-exchange agreement between the Bank of Russia and the insurance regulator of the country where the foreign insurer is established, which *de facto* limits the list of countries whose insurers can directly carry out activities in Russia.

In addition, the final version of the Bill provides for mandatory membership of a foreign insurer in a self-regulatory organisation established in accordance with the Federal Law “On Self-Regulatory Organisations in the Financial Market” (through its Russian branch). Foreign insurers must join the self-regulatory organisation within 90 days from the date of issue of the licence or the date of entry of information in the Unified State Register of Insurance Entities. Furthermore, the procedure for calculation of membership fees for foreign insurers remains unclear: it is assumed that it will be established by self-regulatory organisations independently within 180 days from the entry into force of the Bill. Self-regulatory organisations will also determine to what extent provisions of internal documents of self-regulatory organisations will apply to foreign insurers.

Conditions for the commercial presence of foreign insurers opening a Russian branch

According to the adopted version of the Bill, in order to establish a branch in Russia, a foreign insurer, in addition to obtaining a licence, must meet the following requirements:

- A foreign insurer must be registered and have a permit to carry out insurance activities in the territory of a WTO member state. In addition, the insurer cannot be registered in offshore zones and under the direct or indirect control of persons registered in offshore zones.
- Besides experience in the country of establishment (not less than eight years for life insurance and not less than five years for other types of insurance), the foreign insurer is also required to have at least five years’ insurance experience in providing insurance services through branches in other countries for those insurance services it intends to provide in Russia.
- The foreign insurer must have assets of not less than USD 5bn (at the end of the reporting year preceding the application for a licence or accreditation);
- The registered office of the foreign insurer and the address of its actual place of business must be in the

territory of one WTO member state.

- The technical means of the foreign insurer used for storing databases of information systems (which reflect all operations of the foreign insurer under insurance contracts carried out through its branch in Russia) must be located in Russia.
- The foreign insurer must organise a system of internal control and audit in the branch in accordance with the requirements established by the Russian (not foreign) insurance legislation.

The rule on limiting the percentage of foreign capital participation in the charter capital of Russian insurers is also retained. If the established quota of 50% is exceeded, the foreign insurer will be refused a licence and/or accreditation for the branch.

Requirements for the security deposit of a foreign insurer's branch

The previous versions of the Bill provided requirements for the financial stability of foreign insurers, including insurance reserves, a security deposit and a requirement for compulsory reinsurance. However, the adopted version of the Bill does not contain requirements for the formation of insurance reserves and reinsurance. This means that a branch of a foreign insurer has the right to allocate insurance reserves in accordance with the requirements of foreign legislation. In addition, the Russian branch of a foreign insurer is not obliged to transfer risks to the Russian National Reinsurance Company.

The Bill establishes requirements for the security deposit of a foreign insurer's branch, similar to those discussed earlier. The total amount of the security deposit is calculated as the aggregate of:

- the minimum amount of the security deposit – its amount is equal to the minimum amount of the charter capital of an insurance organisation established by the Russian Law “On Organisation of Insurance Business”, ranging from RUB 300m to 600m (EUR 3.48m to 6.96m) depending on the type of insurance; and
- the notional amount of the security deposit – its amount must be sufficient to fulfil the obligations of the foreign insurer under the insurance contracts concluded in Russia.

The notional amount of the security deposit is formed by the foreign insurer in roubles at the end of each quarter based on actuarial calculations and is subject to actuarial valuation and audit at the end of each reporting year. However, the standard that sets the requirements for the procedure of actuarial calculations, evaluation and checking the adequacy of the notional amount of the security deposit has not been adopted yet. In addition, the Bank of Russia may oblige a foreign insurer to submit a regulation on the formation of the notional amount of the security deposit and to establish requirements for such a regulation.

The security deposit must be transferred to a special account opened with the Deposit Insurance Agency before the application for a licence is submitted.

Conclusion

If enacted in its current version, the Bill will come into force on 22 August 2021. As we reported earlier, the obligation to allow branches of foreign legal entities from WTO countries to provide insurance services in Russia was adopted by the Russian government as a result of the country's accession to the Marrakesh Agreement Establishing the WTO.

If you have any questions on this eAlert, do not hesitate to contact CMS Russia experts [Leonid Zubarev](#), [Darya Lukoyanova](#), [Elizaveta Volkodav](#) or your regular contact at CMS Russia.

** In Russian*

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