THE INFLUENCE OF THE ACT ON INSURANCE AND REINSURANCE ACTIVITY ON THE INSURANCE INTERMEDIARIES' LABOUR MARKET IN POLAND

ANDRZEJ GRZEBIENIAK

Dr. Andrzej Grzebieniak, University of Warmia and Mazury in Olsztyn, Poland, phone+48601828278,
e-mail: andrzej.grzebieniak@uwm.edu.pl

Abstract

The aim of this article is to estimate the influence of the new act on insurance and reinsurance activity (which came into force on 1 January 2016) on the development of the insurance intermediaries' labour market in Poland. The assessment has been carried out on the basis of the data on insurance market provided both by the financial regulatory authority for Poland, namely Polish Financial Supervision Authority (PFSA) and by the insurance self-regulating business organization, namely Polish Insurance Association, as well as on the basis of author's own research and the analysis of the provisions of the act in insurance and reinsurance activity. On the basis of the analysis it can be stated that the suggested solutions may effectively eliminate new insurance agents from the market. The elimination would be a result of the necessity of staggering the commission for third-party sales of life insurance with unit-linked insurance as none of the agents will be able to stay in business until they build their own client portfolio. The ban on remunerating the people acting for and on behalf of the insured in third party insurance, especially when it comes to corporate insurance, may effectively eliminate from the market agents working for numerous employers, which may in turn result in a smaller number of such insurance on the market. This problem is also directly relevant to the situation of the insurance brokers, who intrinsically work for or on behalf of the insured.

Key words: *agent, law, insurance market in Poland*

JEL classification: G22

Introduction

On 1st September 2015 Polish Sejm enacted a new law on insurance and reinsurance activity which defines the principles and terms on which a business activity can be carried out within the scope of property and personal insurance and reinsurance activity. It substitutes the previously binding act on insurance activity from 22 May 2003. The essential objective of the act is to implement into Polish insurance law the directive 2009/138/WE of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and thereby to introduce new capital requirements and risk management standards in insurance and reinsurance companies which will be uniform for all the EU member countries. The new act introduces numerous provisions of pro-consumer character which should

improve and strengthen the situation of the insured in the areas in which the consumers' risk is the highest. Those provisions apply to, among others, strengthening the position of the insured in the insurance contracts for account of a third party especially in corporate insurance where the provisions introduce a ban on collecting any remuneration by the insurer. They also concern providing to the insured information about terms of an agreement and the insurance company liability to provide the insured and their heirs information concerning the course of liquidation proceedings. In addition, in case of life insurance contracts and life insurance and endowment insurance contracts (where the performance indemnity of the insurance undertaking equals the insurance premium increased by factor specified in the insurance contract) the insured person can denounce a contract within 60 days from receiving for the first time yearly information about the benefit amount the insured are entitled to as a result of concluding an agreement. The legislator also established new regulations concerning the insurers' responsibilities related to investment policies. Before taking out a unit-linked insurance an insurance company should, by using a questionnaire, obtain some information from the insured persons. The information should concern the insured persons' needs, experience and knowledge about life insurance as well as the person's financial situation. Such action should be undertaken to enable the insurance company to choose an appropriate insurance contract which will match the insured in the best possible way. On the basis of the collected information the insurance company presents the insured with the offers which would match their needs, together with the validation which includes especially the insured identified needs as well as an explanation in what way the suggested offers will meet those needs. The act provides that in case of long term investment policies (over 5 years or for an indefinite period) commission for third party sales should be equally distributed over a period not shorter than 5 years. In a situation in which an investment policy is taken out for a period not longer than 5 years the insurance company equally distributes over this time the spending on insurance brokerage during the period of insurance defined in the insurance contract. Such solution will certainly lead to the limitation of commissions for brokerage, especially for new brokers as 70-80% of them do not work longer than for 1-2 years, which, together with the awareness of that fact may negatively influence their commitment into obtaining such unit-linked insurance policies.

New legislative solutions

The directive 2009/138/WE of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) is a codification of the thirteen insurance and reinsurance directives binding up to then. Introducing this new directive into Polish insurance law means a new approach to insurance and reinsurance agencies' solvency which depends on deviating from treating solvency of those companies only in the quantitative aspect of the established capital requirements and emphasizing the connection between capital requirements and the real risk at which the insurance and reinsurance companies are placed. The system is based on three pillars. The first one concerns quantitative requirements (capital ones), the second one – qualitative requirements (management system and supervising the process), the third one – disclosure requirements of insurance and reinsurance requirements. This structure was taken from the solutions practiced in the banking sector, worked out by *Basel Committee* on Banking Supervision, known as Basel Capital Accord (Basel II). The new solvency regime is constructed in such a way so that by binding capital requirements with risk it encourages the supervised entities to best, most efficient assessment and risk measurement which is strictly connected with their insurance and reinsurance activity and as a result to the most effective risk

management. For this, new rules concerning creating technical reserves (provisions) were set, both for the need of determining solvency as well as for the case of financial reporting.

The above mentioned pro-consumer solutions concerning the period during which consumers may withdraw from life insurance contracts and life insurance and endowment insurance contracts apply also to the contracts for the account of a third party. If the amount of a benefit is established on the basis of certain indexes or other base rate also in those situations, as well as in the situation of endowment insurance, the insurance company pays out the value of the paid premiums less of no more than 4%. The insurance company may reduce the paid amount by the cost of the insurance protection unless the costs were allocated earlier. If the insured financed the costs of premiums the insurer immediately returns to the insured the amounts paid by the insurance company. In case of denouncing a unit-linked life insurance contract the insurance company pays out the value of the unit found in unit-linked insurance as of the day of receiving the information about denouncing the contract less of no more than 4%. In case of life insurance the insured should receive from the insurance company information concerning the amount of benefits under the concluded insurance agreement, the possibility that amount of benefits will change while the agreement is in effect as well as information about cash surrender value of life insurance if such a buyout is possible under the agreement. The insured should receive all the information in writing or on some permanent data carrier and it should be provided for the first time after at least 10 months but not later than 14 months after concluding an agreement. If under the agreement there are benefits based on sum insured expressed in a particular amount, the insurance company informs the insured about changes within the amount of the sum insured. The information must also include the amount of the insurance premium if the agreement includes sharing the profits from investing insurance technical reserves for accounting purposes.

Additional pro-consumer solutions should improve and strengthen the situation of the insured in the fields in which Polish Financial Supervision Authority, Office of Competition and Consumer Protection and Financial Ombudsman Service (in the range of insurance) identify the biggest consumer threats. For example, the legislator points out that if after the analysis of the information collected by the insurer it turns out that the insured needs are not equal to his statement, knowledge in the field of life insurance or his financial situation or when the insurance company is not able to provide a suitable insurance contract the insurance company is obliged to give such information to the insuring party together with a warning that the result of the conducted analysis or the insurance company offer prevents the company from offering an appropriate insurance. The insuring party confirms receiving such information submits a written statement concerning reading the warning. In such a situation an insurance contract may be concluded only at the insured written behest.

Huge changes on the insurance market may lead to new solutions concerning corporate insurance. In workplaces it concerns mainly corporate life insurance or health insurance, in schools personal accident insurance for young children and teenagers, in banks unit-linked insurance policy and credit insurance. Parties to the agreement are the insured (employer/school/bank). Until the act came into effect the insured played two roles. They were not only representatives of all their clients to the insurance companies by covering the costs of premiums from the financial resources obtained from the insured but they also acted as insurance intermediaries getting a commission for the insurance contribution from every member who takes out a group insurance. A conflict of interests, which appeared in such situations, was especially visible in case of banks. The new act provides that in case of insurance contracts for account of a third party, especially corporate insurance, there is a ban on collecting by the insurer not only remuneration but also on drawing benefits out of offering the possibility of insurance protection. The only exception is a type of corporate insurance

where the employer takes out the insurance for and on behalf of the employees. Only in this situation the insured, as an employer, may collect remuneration (commission) from the insurance company. Thus, schools will not collect any remuneration and neither will banks which have already started withdrawing from corporate policies. The withdrawal started after the U Recommendation came into effect on 31 March 2015. The recommendation was issued in order to improve the standards of cooperation between banks and insurance companies in respect of offering clients – unprofessional financial market participants – insurance products by banks and determining the conditions for sustainable development of bankassurance market in the long period. In corporate insurance the client who is provided an insurance cover is not a party to the agreement so he or she is in a worse position than they would be if they had a personal life insurance. Until the new act came into effect the insured did not have to get the policy of insurance unless they asked for one. The new insurance act strengthens the position of the insured in corporate insurance as from 1 April 2016 every client, before being provided an insurance cover (e.g. at work) will have to receive the policy of insurance. Otherwise, the insurer will not be able to claim restrictive convenant or disclaimer of liability of the insurance company. It also will not be able to claim the assumed results of breach of the insured obligations or burden with duties. The same regulations apply to all the other forms of corporate insurance.

The new act on insurance and reinsurance activity broadens the scope of Polish Financial Supervision Authority (PFSA) authorities so that it enables the institution to give recommendations within the scope essential to follow the orientations and guidelines of the European Insurance and Occupational Pensions Authority but also in order to ensure compliance of insurance and reinsurance companies' activities with the regulations as in force at present(according to regulations as in force at present), to contain the risk in the activities of those companies, to prevent infringing upon the interests of the insured, insurers, beneficiary and entitled persons. Moreover, the new act enables Polish Financial Supervision Authority to control the activities of branches of foreign insurance undertakings and reinsurance undertakings within the territory of European Union. The act also allows to monitor the market of insurance-based investment products and of product intervention which gives the opportunity to prohibit or restrict the placing on the market, distribution or sale of some insurance-based investment products, type of financing activity or business practice of insurance or reinsurance undertaking.

It is assumed that Solvency II will bring considerable long-term socio-economic benefits, not only for the insurers, insured but also for the beneficiary and entitled persons from an insurance contract as well as for insurance and reinsurance companies. The benefits mainly manifest in reducing the probability of companies insolvency, increasing competitiveness and at the same time improving the quality of provided services, reducing the costs, increasing transparency and better risk assessment. The situation of the insured who are offered a unit-linked insurance policy will also improve not only because of the fact that doing an analysis as far as necessity of having such a policy is concerned but also as there will be a possibility to denounce a contract within 60 days from receiving for the first time yearly information about an account balance.

The results of author's own research

Insurance products in Poland in sector I (life insurance) are distributed mainly by banks working as insurance agents (bank assurance) 25,98% market share in 2013, 26,03% in 2014), natural persons as insurance agents 13,35% in 2013, 16,15% in 2014). Employers taking out corporate insurance contracts for and on behalf of their employees are a separate distribution chain.

In 2014 as much as 26,04% out of all life insurance policies were taken out as a corporate insurance and the number of insured persons estimated 30,34 million in particular 21,98 million took out accident insurance and 8,36 million sickness insurance [2]. According to the new act in a unit-linked life insurance contract the insurance company in respect of granting remuneration to insurance intermediaries should uniformly distribute in time the insurance intermediaries' provision, taking into account the time for which the insurance contract was taken out. The survey was conducted in order to establish if such a solution would affect the work of insurance intermediaries.

The survey was conducted in January and February 2016 and the respondents were 100 randomly chosen insurance agents working in 15 local offices of insurance companies in Olsztyn. 0ut of the chosen respondents have less than 3 years of experience and the rest work longer. The aim of the survey was to analyse the insurance agents' opinions concerning the influence of the new legislative solution on their work and especially the distribution in time of the commissions (tables 1 and 2), the motivating and demotivating factors affecting their work. Each of those factors was rated using numbers from 1 (the least important) to 6 (the most important) (tables 3 and 4).

Table 1. The influence of distributing in time the insurance intermediaries' commissions on their work

Specification/Details	Insurance agents working for a period shorter than three years			Insurance agents working for a period longer than three years		
	Answers (in numbers and in %)			Answers (in numbers and in %)		
	Negative	Neutral	Positive	Negative	Neutral	Positive
The influence of distributing in time the insurance intermediaries' commissions on their work	28 (93,33)	2 (0,067)	0 (0)	34 (48,57)	31 (44,29)	5 (7,14)
In total	30			70		
The influence of distributing in time the insurance intermediaries' commissions on their work	Total number of insurance agents' answers (in numbers and in%)					
	Negative		Neutral		Positive	
	62 (62)		33 (33)		5 (5)	
In total	100					

Source: own processing

According to the results of the research presented in table 1, 62% of the respondents (insurance agents) described as negative the influence of distributing in time commissions on their work. Such an answer was chosen by 93,33% of insurance agents working less than 3 years and almost half of the insurance workers working for over 3 years (48,57%). Such results underline

their clearly negative view as far as validity of the introduced solution is concerned. However, it should be also stated that until then insurance intermediaries quite often encouraged clients to take out so-called saving insurance policies as they received high commissions for them. In most cases it was enough if the client decided to keep the insurance in force for two years. If after that time the insured decided to break a contract, the insurance agents would not suffer any financial

consequences. From that point of view, the solution presented in the new act seems to be eliminating situations in which agents deliberately overstated the advantages of unit-linked insurance policies. Now within a few years the client is able to find out what kind of product it is and if it is profitable. If the client resigns from the product, the insurance intermediary will not get any commission. The resentment of the respondents is understandable and it cannot be excluded that their limited commitment in selling that product is the result of this negative feeling as it can be directly linked with their smaller earnings. It seems to be of crucial importance in case of insurance employees with short work experience. It is also visible in the results presented in table 2 which show the causes of negative effects of distributing in time the insurance intermediaries' commissions on their work.

Table 2. Reasons for negative effects of distributing in time the insurance intermediaries' commissions on their work.

	Reasons for negative effects of distributing in time the insurance intermediaries' commissions on their work.	Insurance agents
		Answers (in numbers and in %)
1	Lack of possibility of realising return on work as an insurance intermediary during the first year of work	20 (32,26)
2	Demotivating way of employee compensation after a longer period after taking out an insurance	15 (24,19)
3	Irrecoverable part of provision after termination of an agency contract	8 (12,90)
4	Lack of financial stability at work because of the high probability of withdrawal of saving insurance policy	19 (30,65)
In total		62 (100)

Source: own processing

It should be underlined that as much as 30,62% of given answers (19 out of 62 respondents) emphasize negative effects of distributing in time the insurance intermediaries' commissions on their work. They underline lack of financial stability at work as an insurance agent also because of high probability of frequent withdrawal of saving insurance policies by the insured. Of course it is not the only factor influencing this lack of stability however it is a significant obstacle especially for those insurance agents who have just started their work. The respondents also highlighted demotivating way of employee compensation after a longer period after taking out the insurance (24,19%) as well as incoverable part of commission after termination of the agency contract (12,9%). It must be highlighted that lack of financial stability at work may result from the fact that the legislator did not determine the way of distributing insurance commission in time when it comes to insurance contracts concluded for an indefinite period of time (which is quite frequent in case of unit-linked life insurance). It has not been determined if in case of insurance contracts concluded for 10-20 years the commission should be evenly distributed during the whole period for which the given contract was concluded. Assuming that a new insurance agent finalizes two life insurance contracts a month with a premium about 1800 zl per year and commission which amounts to 100% of annualized premium, he can attain income up to 3600zl. After deducting tax and social insurance

contributions the net income amounts about 2500 zl. However, if the income of 3600 zl was evenly distributed over the period of for example 10 years the insurance agent would get 30 zl in the first month, in the second month the accrued value of the income from the two contracts in the first month and two contracts from the second month will amount altogether 60 zl, so after 12 months and 24 taken out life insurance policies the accrued value of insurance agent's remuneration would amount 360 zl a month. So after the first year of work he will not even be able to pay social security premiums. It is easy to predict that with such conditions it will be difficult to encourage new people to work as insurance agents.

Another research was conducted in order to understand in a better way the behavior of insurance agents. The questions in the survey concerned motivating and demotivating factors influencing the behavior of insurance agents. Tables 3 and 4 show the results of the research.

Table 3. Factors motivating work of insurance intermediaries

	Motivating factors	Answers (%)
1	Financial support provided by an insurance company to a new insurance intermediary – In case of new workers meeting the sales target of taking out two insurance contracts every month during the first year of work should result in getting a basic remuneration/salary in a given month (e.g.minimum wage in the country – if the equivalent commission-based remuneration is lower)	26,66
2	Logistic support on a high level – access to IT systems, standard of proficiency of employees cooperating with an insurance intermediary in taking out and servicing policies	20,99
3	A significant number of powers of attorney to issue a policy	15,71
4	Product support – appointed and experienced workers helping with getting the answer to any doubts and difficulties they can encounter or any legal issues	14,24
5	High underwriting commissions	11,40
6	Regular trainings organized and funded by an insurance company	10,00
In total		100,00

Source: own processing

It turns out that high underwriting commissions do not belong to the group of the most important motivating factors. However, their importance is considerably growing if they are on a low level as in such a situation their influence is highly demotivating for the behavior of insurance intermediaries. Low underwriting commissions are named second, just after fear of well-being because of low income (table 4). As motivating factors insurance agents name mainly financial support provided by an insurance company during the initial period of work as earnings are very low and unstable then. The level of logistic support is also of crucial importance. However, when it comes to demotivating factors insurance agents point out lack of product support, high insurance premiums in comparison with the competition's offer, unreliable, abstruse and inadequate computer programs which should support insurance intermediary's work.

Table 4. Factors demotivating work of insurance intermediaries

	Demotivating factors	Answers %
1	Fear of well-being because of lack of stable income	24,76

2	Low commission rate	23,81
3	Product support – lack of appointed and experienced workers helping with getting the answer to any doubts and difficulties or legal issues the insurance intermediaries can encounter	18,10
4	High insurance premiums in comparison with the competition's offer – prevent concluding a higher number of insurance policies	16,67
5	Unreliable, abstruse and inadequate computer programmes which should support insurance intermediary's work.	10,00
6	Unreliable computer programmes which prevent issuing an insurance policy at any time	6,66
In total		100,00

Source: own processing

The number of people removed yearly from the Register of Insurance Agents and the number of removed people who carry out agent services show how difficult the job of insurance intermediaries, mainly insurance underwriters is. (table 5).

Table 5. Insurance underwriters, brokers and people carrying out agent services removed from the register

	Specification	Year				
		2010	2011	2012	2013	2014
		Number of people removed from the register				
1	Insurance underwriters	48852	57969	65680	71609	77422
2	Brokers	0	2	2	0	2
In total		48852	57971	65682	71609	77424
3	Natural person carrying out agent services	29931	28283	31281	27428	27839
In total		78783	86254	96963	99037	105263

Source: own processing based on: 1) Polish Financial Supervision Authority, <http:// www.knf.gov.pl/opracowania/rynek_ubezpieczen/Dane_o_rynku/Dane_roczne/dane_roczne.htmll> (2016-02-13); 2) Polish Insurance Association, https://www.piu.org.pl/raport-roczny-piu (2016-02-13) [7]

Such a big number of insurance underwriters resigning from work as an insurance intermediary results of course not only from financial reasons. However, fear of well-being because of lack of stable income is the most important factor demotivating work of insurance underwriters. Other causes determined in different research are difficulties with communication with clients [3], lack of link between the commission rate and the amount of work the insurance intermediaries have done, lack of remuneration for other activities connected with administering the contracts.(e.g. connected with the process of claims adjustment, notice of termination of the insurance contract) [4], necessity of constant extending of their knowledge in order to improve the service quality [5], frequent changes of the insured preferences [6].

Conclusions

The new act on insurance and reinsurance activity is the effect of implementing into Polish insurance law the directive of European Parliament (Solvency II). Its aim was to introduce new capital requirements and risk management standards in insurance and reinsurance companies which will be uniform for all the EU member countries. From the Polish insurance intermediaries' point of view the most important changes which can influence their work in a negative way are:

- the insured in a group insurance contract cannot receive any remuneration for every person which takes out an insurance. It reduces the chance of an insurance intermediary to convince the insured to take out such an insurance contract and at the same time to receive a commission-based remuneration by the insurance intermediary
- in case of a unit-linked insurance policy the insurance underwriter's commission should be evenly distributed in time during at least 5 years (if the policy is taken out for a shorter period, for the whole time of keeping policy in force). It influences the respondent's judgment in a very negative way as it makes achieving profitability practically impossible, especially during the first year of work.
- Before issuing a unit-linked policy an insurance intermediary must conduct an analysis of client's needs and capabilities. The tool for collecting data should be a survey which extends the procedure of concluding an agreement and increases the probability that there will be no grounds to conclude one which in turn may result in lack of commission for the insurance intermediary, despite his huge personal contribution (although on the other hand it can be beneficial for the client).

The aim of this article was to estimate the influence of the new act on insurance and reinsurance activity (which came into force on 1st January 2016) on the development of the insurance intermediaries' labour market in Poland. The conducted analysis shows that the new solutions may have a negative influence on the work of current and potential insurance intermediaries due to deteriorated conditions of commission-based remuneration when it comes to unit-linked insurance policies. Also additional free of charge obligations connected with the necessity to carry out and substantiate the analysis of client's needs and necessities in a form of a survey can discourage the insurance intermediaries from capturing new clients for such policies. Moreover, there may be little interest of people carrying out agent services in a corporate insurance policy as they will be deprived of remuneration for every person purchasing a corporate insurance which, in turn, clearly translates into potential lack of commission for insurance intermediaries for concluding such contracts. The conducted research also shows that although high commission rates are not considered to be the most important motivating factor for insurance intermediaries, their low level is one of the most demotivating factors

Bibliography

[1] *Rekomendacja U dotycząca dobrych praktyk w zakresie bancassurance* [online]. 2016. Polish Financial Supervision Authority, [qt. 2016-02-19], available on the Internet: http://www.knf.gov.pl/Images/Rekomendacja_U_tcm75-38338.pdf.

[2] Polish Financial Supervision Authority <http://www.knf.gov.pl/opracowania/rynek_ubezpieczen/Dane_o_rynku/Dane_roczne/dane_roczne.html>

[3] GŁODOWSKI, W. 2006. Komunikowanie interpersonalne. Warszawa, Hansa Communication, 2006, ISBN 83-911498-5-4, p. 17.

[4] PRZYBYTNIOWSKI J.W. 2013. Konkurencyjność rynku usług pośrednictwa ubezpieczeniowego w Polsce. Warszawa, PTM, 2013, ISBN 978-83-61949-17-6, p. 145.

[5] NIESTRÓJ R. 2002. Zarządzanie marketingowe – aspekty strategiczne. Warszawa, PWN, 2012, ISBN 83-01-12017-7, p. 57.

[6] KOTLER PH. 1999. Marketing. Analiza. Planowanie. Wdrażanie. Kontrola. Warszawa, FELBERG SJA, 1999, ISBN 83-911465-3-7, p. 161.

[7] Polish Insurance Association, https://www.piu.org.pl/raport-roczny-piu.