
Legal Alert

NEW REQUIREMENTS ON PLACEMENT OF INSURER'S OWN FUNDS

August 2010

The Ministry of Finance is considering the cancellation of Order No. 149N, which sets the requirements for the composition and structure of assets to cover an insurer's own funds, and the adoption of new requirements set to come into effect as from 30 June 2011.

The main change is to the indicator defining an insurer's own funds, which is currently the larger of the two indicators: the minimum amount of charter capital and the rated amount of the solvency margin. The draft of the Order introduces a coefficient which varies depending on the type of coverage underwritten. For example, the figure is 1.6% for insurers underwriting liability insurance for air, water, railroad and dangerous objects, and 1.3% for other insurers.

In addition, the draft of the Order sets stricter requirements on promissory notes that are allowed to cover an insurer's own funds. Such promissory notes are required to be purchased as per a sale and purchase agreement (SPA) and have to be paid accordingly. Bills of exchange and promissory notes the issuers of which do not meet certain criteria may not cover insurers' own funds. These criteria are: the securities are to be included in the Bank of Russia Lombard List; or the issuer is required to have a rating of at least BB- (S&P), Ba3 (Moody's) and BB- (Fitch); or the issuer is required to be rated by one of the Russian agencies accredited, and included into the register of the accredited rating agencies, by the Ministry of Finance.

It has also been proposed to amend the asset list in which own funds can be placed above the solvency margin. Specifically, this includes securities issued by international financial organisations or those issued by non-residents of Russia outside the country, and included in the Bank of Russia Lombard List. The share of these securities is 20%.

The structure correlations are also subject to change: the maximum value of bank bills and

deposits, including those certified, in one bank has increased from 20% to 25%; and the value of shares in mutual funds and certificates on the equity share in bank-managed mutual funds has increased from 10% to 15%. The value of one real estate object has increased from 20% to 25%. The value of assets located abroad has increased from 20% to 30%.

It has been proposed to limit the total value of securities issued by one legal entity to 10% and to limit the total value of securities issued by one bank to 35%. In addition, it has been proposed to limit loans extended to subsidiaries and affiliated companies to 15% of the amount of assets to cover own funds in the amount exceeding the larger of the two indicators: the minimum amount of the charter capital and the rated amount of solvency margin (the limit is currently 15% of the insurer's own funds).

Loans extended to other companies are limited to 5% of the amount of assets to cover own funds in the amount exceeding the larger of the two indicators: the minimum amount of the charter capital and the rated amount of solvency margin (the limit is currently 5% of the insurer's own funds). Investment in intellectual property (excluding software and databases) is limited to 2% of the amount of assets to cover own funds in the amount exceeding the larger of the two indicators: the minimum amount of the charter capital and the rated amount of solvency margin (the limit is currently 5% of the insurer's own funds).

We consider the proposed changes to be a step forward in developing legislation to secure the overall financial stability of insurance companies.

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If you have any questions on the matters referred to in this Alert, please do not hesitate to contact CMS Partner *Leonid Zubarev* or CMS lawyer *Anna Pavlovskaya* and at +7 (495) 786 4000 or your regular contact at CMS.

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