

AIDA Questionnaire on the Corporate Governance of Insurers
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I. General

1. In your jurisdiction, what corporate governance models are available to insurance companies? In case multiple models are available, describe the main differences and the allocation of management and monitoring powers among the relevant bodies/committees and which model is generally or ideally adopted by insurance companies.

Answer

There are no corporate governance models in Bolivia that would have been approved or may be mandatory for insurance companies; nevertheless, the Law of financial Services includes some provisions related to corporate governance of financial groups. It is under this light that they would be mandatory for insurance companies that are part of such groups.

Those companies that wish to establish policies and corporate governance rules, must do so under their Bylaws and other Charter documents of the Company pursuant to the Bolivian Commerce code , Administrative Resolution RA/AEMP/N°99/2016 dated December 30th, 2016 and Administrative Resolution A/AEMP/N° RA/AEMP/N° 25/2017 dated April 12th, 2017, which approve and may amend any mandatory Amendments and Corporate Governance Regulations of commercial companies (Including insurance companies,) issued by the Authority of Company Control – AEMP, for its acronym in Spanish, and related to regulations and good commercial practice standards thereof.

2. What are the main sources of regulation addressing corporate governance of companies (and in particular of insurance companies)? *e.g.*, statutes, regulations, other rules/recommendations issued by national and supranational supervisors/regulators, self-regulation, codes of best practice, codes of ethics.

Answer

Companies in general and particularly Insurance companies are subject to the following legal framework, Internal statutes, Bylaws and other Charter documents of the Company pursuant to the Bolivian Commerce code , Administrative Resolution RA/AEMP/N°99/2016 dated December 30th, 2016 and Administrative Resolution A/AEMP/N° RA/AEMP/N° 25/2017 dated April 12th, 2017, which approve and may amend any mandatory Amendments and Corporate Governance Regulations of commercial companies (Including insurance companies,) issued by the Authority of Company Control – AEMP, for its acronym in Spanish, and related to regulations and good commercial practice standards thereof.

It is necessary to point out, that at the moment of this answer, the Regulation of corporate Governance and its amendments, approved by the authority that

supervises Commercial Enterprises (AEMP) for its acronym in Spanish, is currently being challenged, and thus it is quite possible that it may vary or even become ineffective.

3. In your jurisdiction, are you aware of any insolvency or distress of an insurer directly attributable to poor corporate governance standards or practices or failure to adequately implement and apply such principles? If so, please identify the main triggers of the insolvency.

Answer

Not necessarily as the sole factor for insolvency, but nevertheless, all insurance companies are well aware of the importance of good corporate practices, although there may not there be a specific norm.

There are, nevertheless, some insurance companies that have become insolvent due to not very prudent practices, family ties, wrong treatment of disasters and claims.

4. In your jurisdiction, is corporate governance regulation applied according to the nature, scale and complexity of an insurer's business? If yes, please describe any significant differences and rationale for the differences.

Answer

No; corporate Governance Regulations are very general for all commercial entities, and do not hold special norms and regulations for insurance companies.

5. Please provide specific examples of corporate governance structures and practices that are better implemented through self-regulation rather than through legal or supervisory requirements.

Answer

Most insurance companies follow internal control norms and regulations insofar as good Corporate Governance practices

In some cases, such measures comprise of voluntary capital increase, job descriptions, instructions, audits, specific regulations, periodic reviews of their control systems and internal control by the main executives of the company, etc.

6. In case your jurisdiction was recently requested to implement domestically certain corporate governance principles set forth by supranational regulations, describe the main obstacles and problems (if any) that resulted from such process.

Answer

Corporate Governance norms and the amendments thereto are fairly recent and it has been approved by (AEMP), (circa April 2017) but it has been challenged, therefore it may not even pass or suffer major changes, therefore, it would not be advisable to establish the pros and cons thereof in their use, since it is practically in an implementation process and may be either not passed or substantially changed.

7. Are there any significant differences between general corporate governance rules and the specific rules governing insurance companies?

Answer

The Bolivian Commerce Code establishes very general norms and regulations and thus they may be different to those of the Insurance Law, although they are not called corporate governance rules, they fulfill such purpose.

II. Fitness and Propriety of Board of Directors.

1. Are there any laws or regulations already adopted or any proposals in your jurisdiction, relating to the qualification and composition of board directors in an insurance company? If so, please explain.

Answer

There are some provisions under the Bolivian commerce Code, the Insurance law and other norms and regulations related to requirements, prohibitions obligations, faculties and liability of the Directors and executives of Insurance companies

These norms and regulations further establish generalities such as the minimum and maximum number of Directors (3 – 12), requirements to become a Director, and the Liabilities thereof, bonds that may be needed to be submitted, and the general format for Board Meetings and Shareholders Meetings as well as their relation with third parties thereto related.

2. In your opinion, what factors, conditions, or incentives might weaken the independence of the board of directors or individual members of the board?

Answer

There are several factors that could weaken the independence of Board of directors, such as the fear to incur in some type of liabilities due to excessive regulations that may be beyond reasonable. Some economic incentives in better commercial achievements may also affect prudence in company policies. Also the kind of clients, if they are too powerful may incite some preferential or biased treatment by some of the executive staff as well as family or commercial ties of the directors with the shareholders, the company or other third parties thereto related.

3. How does an insurance company ensure that individual board members and the board collectively have enough knowledge to monitor and oversee the activities of the insurer appropriately, particularly where specific expertise is needed?

Answer

Most Insurance companies have some guidelines to appoint its Directors be it pursuant to internal or external summons pursuant to company policies.

The effective compliance of the general norms and regulations and specific ones.

4. Are there significant differences in terms of requirements and duties between executive and non-executive members of the board of directors of an insurer?

Answer

Yes, there are very important differences in relation to certain requirements for

executive and non executive members established by general norms and regulations, and those established pursuant to internal regulations and policies

5. In your jurisdiction are there any black letter rules or general principles that enable directors to rely upon external opinions when addressing issues or aspects where specific expertise is needed?

Answer

Generally accepted accounting practices and external audits to reveal the equity and financial position of the company

6. Describe the extent and scope of supervisors'/regulators' intervention with reference to the qualifications and to the activities of the board of an insurer.

Answer

The APS (The Authority for the Control and Supervision of Pensions and Insurance, for its acronym in Spanish) which is the regulatory entity of the area establishes that any Directors related to the insurance business must be mandatorily registered before the APS. In the event that there is a default or any misleading on corporate decisions this entity may penalize the insurance company and Directors and even make an intervention of the company with all legal effects thereto related. On the other hand AEMP, which is in charge of corporate governance for all commercial enterprises in general, may impose penalties and has the faculty to supervise any commercial enterprises in general and verify the effectiveness thereof and establish penalties and disqualify any Director

7. Are there any special rules and regimes applicable to the governance of subsidiaries belonging to an insurance group, also in terms of information flows?

Answer

The Bolivian Commerce Code establishes very general norms and regulations and thus they may be different to those of the Insurance Law, although they are not called corporate governance rules, they fulfill such purpose.

III. Risk Management

1. In your opinion, what is the biggest risk challenge (e.g. regulation, capital standard, pricing, interest rate, cyber, terrorism, etc.) facing the insurance industry today in your jurisdiction?

Answer

Depending on the circumstances, there are different risk factors, one of which is Price; however, it is not the only one, nor the most important. One of the most important factors is sufficient capital and reserves

2. What specific laws or regulations, actual or pending in your jurisdiction, will present significant implementation risk challenge toward the insurance industry?

Answer

The new Bolivian Commerce Code.

IV. Ethics and Corporate Social Responsibility

1. Please provide any concrete examples where business ethical standards and/or corporate social responsibility standards have been applied and have changed

the behaviors of the insurance company.

Answer

There are several company risk liability programs that although they may not be demandable due to a lack of norms and regulations are already being used; such as nutritional responsibility, support to sports, financial education on insurances and many others.

2. In your jurisdiction, are there any specific laws or regulations already adopted or any proposals, or any arrangements in place in the governance system, relating to the protection of policyholders' and/or financial consumers' interests?

Answer

The new Bolivian Nutritional Liability Commerce Code

3. In your jurisdiction, is an insurance company required to produce an annual Corporate Social Responsibility (CSR) report or a Global Sustainability Initiative (GSI) report? If so, what context needed to be disclosed in these reports?

Answer

There is no obligation to draft reports on company social responsibility, since as mentioned before the norm is still pending approval and thus it is not yet mandatory.

V. Disclosure

1. In your opinion, what mechanisms shall be in place or considered in an insurance company to ensure the transparency of its governance structure? (e.g., the articles of association, the organization chart, any existing committees, the majors hare holders, the ethical standard, corporate social responsibility, etc.)

Answer

There are different instruments used by insurance companies; to mention a few we may mention Statutes, internal regulations., ethical self-regulation, permanent control audits and the effective compliance of all legal provisions that go beyond the simple compliance of formalities

2. Are there any governance practices that, in your opinion, can best be achieved through disclosure rather than through specific supervisory requirements? Which governance practices should be mandatory for an insurance company?

Answer

I believe that financial, management and decision-making transparency practices should be instated by insurance company vis a vis disasters.

3. What is the interplay between market abuse regulations and other disclosure/transparency rules applicable to listed insurers and industry specific rules applicable only to insurance companies?

Answer

There is an interaction between applicable, regulatory measures and the different

company governance bodies, even if these are general norms, as well as with the internal and specific norms related to corporate governance insofar regulatory authorities may coordinate such regulation.

VI. Outlook

In respect of the corporate governance of insurers, please describe your criticisms on the system in your jurisdiction, any recommendations for the future, and/or the main challenges which insurance undertakings encountered.

Answer

Corporate Governance, through special norms and regulations, has the faculty to comment and establish and implement new regulations based on other prior norms and regulations, although it is fairly new, and they may judge on their basis of corporate governance, I believe that the Bolivian Commerce Code should include updated and modern norms and regulations. Nevertheless, an excessive regulation may not necessarily be the solution to our problems.