

A long-term promise under supervision

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An insurance contract is a promise whose value depends almost entirely on the future solvency of the party that gives it. The policyholder pays the premium at the start, while the insurer performs, if at all, when a fire breaks out, a ship sinks, a person dies or a pension falls due, which may be decades later. Because the policyholder cannot easily assess whether the insurer will still be able to pay at that moment, the law has long placed an expert supervisor between the two. Part D of this book described how Switzerland, under the impression of the growth of the Basel and Zurich companies and of failures among foreign insurers, adopted federal insurance supervision as early as 1885.¹ The present chapter takes up the story where that account ended and examines the regulatory framework under which Swiss insurers, including the group formed by the combination of Baloise and Helvetia with its seat in Basel, operate in the third decade of the twenty-first century.

The modern Swiss framework rests on three pillars that can be named briefly. The Insurance Supervision Act of 2004 (ISA, in German *Versicherungsaufsichtsgesetz*, VAG) defines who needs a licence, what the supervisor may demand and how policyholders are protected when an insurer gets into difficulties. The Swiss Solvency Test (SST), introduced from 2006 and binding since 2011, is the risk-based capital regime that translates the abstract duty to remain solvent into a quantitative measure. The Insurance Contract Act of 1908 (ICA, *Versicherungsvertragsgesetz*, VVG) governs the private law relationship between insurer and policyholder.² Around these instruments, the Swiss Financial Market Supervisory Authority (FINMA) has developed an extensive body of circulars and supervisory practice. International standards set by the International Association of Insurance Supervisors in Basel and the European Union's Solvency II regime form the external reference points against which the Swiss approach is measured.

This chapter is written from the perspective of a practitioner who advises on cross-border insurance structures and regulatory questions. It does not attempt a complete commentary on Swiss insurance supervisory law, for which the reader is referred to the specialist literature. Its aim is to explain the logic of the system, its historical development since the reforms of the early 2000s and the points at which Swiss insurance regulation meets the European and international frameworks discussed elsewhere in this book.³

1 Notes

1. See Part D, chapter IV, section "Federal supervision of insurance", on the Federal Act of 25 June 1885 and the Federal Insurance Office created in 1886. Cross-reference. ↩
2. Federal Act of 17 December 2004 on the Supervision of Insurance Companies (Insurance Supervision Act, ISA/VAG, SR 961.01); Ordinance of 9 November 2005 on the Supervision of Private Insurance Companies (Insurance Supervision Ordinance, AVO, SR 961.011); Federal Act of 2 April 1908 on the Insurance Contract (ICA/VVG, SR 221.229.1). To be verified. ↩
3. For a systematic treatment, see the commentaries on the VAG and VVG in the Basler Kommentar series (Honsell/Vogt/Schnyder, eds., Basler Kommentar Versicherungsaufsichtsgesetz, 2013, and Basler Kommentar Versicherungsvertragsgesetz, 2nd ed., 2023) and the textbooks on Swiss private insurance law. Editions to be verified. ↩

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