

Insurance supervision: from the 1885 Act to the Swiss Solvency Test — overview and summary

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Every insurer, reinsurer and insurance broker that does business from Zurich today works under a supervisory regime whose roots reach back to the constitutional revision of 1874. When the Swiss Financial Market Supervisory Authority (FINMA) reviews a solvency report submitted from Mythenquai, approves a new supplementary hospital product or opens proceedings against an intermediary who has telephoned households without consent, it exercises powers that the Confederation first claimed for itself in the nineteenth century. The federal statute of 25 June 1885 on the supervision of private insurance undertakings created one of the earliest dedicated insurance supervisors in Europe. Its successor statutes of 1978 and 2004, the Swiss Solvency Test (SST) introduced from 2006 and the partial revision of the Insurance Supervision Act that entered into force on 1 January 2024 form a line of development that can be followed without a break. Few areas of Swiss financial law show so clearly how an early public intervention, shaped by the failures of a young market, grew into a sophisticated risk-based system that other jurisdictions studied and partly copied.

This chapter traces that line. It begins with the constitutional mandate of 1874 and the Act of 1885, describes the work of the Federal Insurance Office in Bern and the Insurance Contract Act of 1908, and follows the security legislation that the Confederation adopted after the First World War when German life insurers could no longer meet their obligations to Swiss policyholders. It then turns to the Act of 1978, the agreement of 1989 with the European Economic Community on direct non-life insurance and the deregulation of the 1990s. The central sections deal with the crisis of 2001 and 2002, the Insurance Supervision Act of 17 December 2004, the Swiss Solvency Test, the creation of FINMA in 2009 and the recognition of the Swiss regime as equivalent to Solvency II in 2015. A long section is devoted to the revised Insurance Supervision Act and the revised Supervision

Ordinance in force since 1 January 2024, including the new restructuring regime, the differentiation between professional and retail policyholders and the rules of conduct for intermediaries. The chapter closes with enforcement practice, group supervision, a comparison with Solvency II and the Insurance Capital Standard of the International Association of Insurance Supervisors, and a practitioner's assessment.

Three perspectives run through the account. The historian sees a state that intervened early because it had watched foreign and domestic insurers fail, and that kept a close, sometimes paternalistic grip on premiums and conditions for about a century. The lawyer sees a body of statutes that moved from licensing and deposits to a principles-based, economic view of the balance sheet, with a strong emphasis on the protection of policyholders over the interests of shareholders and ordinary creditors. The practitioner in Zurich, where the largest Swiss insurance groups have their seats, sees a supervisory culture that is demanding, technically competent and accessible, whose principal instrument, the SST, has become part of the everyday vocabulary of boards, actuaries and investors. Chapters E.I to E.III of this part describe the Rentenanstalt, Swiss Re and Zurich Insurance as enterprises. The present chapter looks at the public framework within which they grew.

1 Conclusion

Swiss insurance supervision began with a constitutional mandate in 1874 and a short statute in 1885, adopted after the failures of an unregulated market had shown that policyholders needed protection. The Federal Insurance Office, staffed from its beginnings by statisticians and actuaries, built a regime of licensing, reporting and preventive product control that served policyholders well while also sheltering a cartelised industry. The security statutes of 1919 and 1930, adopted after the collapse of the German life insurers in the inflation, added the principle of asset segregation that survives in the tied assets of today.

The second half of the twentieth century brought a new statute in 1978 and the first steps towards European integration through the agreement of 1989 on non-life insurance. Deregulation in the 1990s dismantled the cartels and most of the preventive product control. The crisis of 2001 and 2002 then exposed the weakness of accounting-based solvency rules and produced the Insurance Supervision Act of 2004 and the Swiss Solvency Test. The SST, introduced in 2006 and mandatory since 2011, measures solvency on a market-consistent, risk-based basis and has become the central management and supervisory instrument of the Swiss insurance industry.

After FINMA had taken over supervision in 2009, the European Commission recognised the Swiss regime as equivalent to Solvency II in 2015.

The revision in force since 1 January 2024 completed the modern framework. It introduced a restructuring regime with portfolio transfers and bail-in, differentiated supervision according to the protection needs of customers, conduct rules for intermediaries and qualified life insurance, and a small-insurer regime. FINMA's revised ordinance and circulars, in force since 1 September 2024, implemented these rules in technical detail. A further amendment exempting reinsurance brokers from registration is pending. For Zurich, as the seat of the largest Swiss insurance and reinsurance groups, this framework is part of the infrastructure of the financial centre, as important as its banks, its stock exchange and its courts.

2 In five sentences

1. Article 34 of the Federal Constitution of 1874 placed private insurance under federal supervision, which the Act of 25 June 1885 implemented by creating a licensing and reporting regime administered by the Federal Insurance Office in Bern, one of the earliest dedicated insurance supervisors in Europe.
2. The Insurance Contract Act of 1908 and the security statutes of 1919 and 1930, adopted after the collapse of German life insurers in the inflation, added contract law protection and the segregated assets for policyholders that survive today as tied assets.
3. After the cartels and preventive product control were dismantled in the 1990s and the crisis of 2001 and 2002 exposed the limits of accounting-based solvency rules, the Insurance Supervision Act of 2004 introduced the Swiss Solvency Test, a market-consistent, risk-based capital requirement mandatory since 2011.
4. FINMA took over insurance supervision in 2009, six years before the European Commission recognised the Swiss solvency and group supervision regime as equivalent to Solvency II with effect from 1 January 2016.

Insurance supervision

5. The revised Insurance Supervision Act in force since 1 January 2024 added a restructuring regime for insurers, differentiated supervision of professional and retail business, and conduct rules for intermediaries and qualified life insurance, which together define the framework within which the Zurich insurance and reinsurance hub operates today.

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