

War, inflation and security: the legislation of 1919 and 1930

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The First World War and its aftermath exposed a weakness that the Act of 1885 had not addressed. Licensing and annual reporting told the supervisor whether an undertaking was solvent on paper. They did not ensure that assets corresponding to the obligations towards Swiss policyholders were actually available in Switzerland when a foreign insurer failed or when its home state imposed exchange controls. German life insurers had written a substantial share of Swiss life business before 1914. Their reserves were invested largely in German mark-denominated assets, which lost almost all their value in the inflation of the early 1920s.

The Confederation reacted in two steps. The first was the Federal Act of 4 February 1919 on the deposit of securities by private insurance undertakings, known as the Kautionsgesetz. It required insurers to deposit securities in Switzerland as a guarantee of their Swiss obligations. For the German life insurers, the requirement arrived at the worst possible moment. As the mark collapsed, they could no longer demonstrate the capital prescribed by the Kautionsgesetz and had to withdraw from the Swiss market. About 62,000 Swiss policyholders with a total sum insured of around 420 million francs faced a total loss.¹

What followed was one of the first rescue operations of the Swiss financial system organised by the federal state. In 1924 the federal chambers approved a relief scheme under which the German life portfolios were transferred to Swiss insurance companies.² The episode anticipated techniques that returned in the revised Insurance Supervision Act of 2024, where the transfer of an insurance portfolio to another undertaking is one of the central restructuring tools. It also strengthened the Swiss life insurers of the interwar period, the Rentenanstalt in Zurich among them, which absorbed business and customers from the departing German offices. For the Zurich insurance community, the lesson was that a Swiss

policyholder's claim was only as good as the assets that secured it within reach of Swiss authorities.

The second step drew that lesson for domestic life insurers. The Federal Act of 25 June 1930 on the securing of claims under life insurance policies of domestic life insurance companies, the *Sicherstellungsgesetz*, required Swiss life insurers to hold a segregated pool of assets dedicated to the claims of policyholders.³ This pool, later called the security fund and today the tied assets (*gebundenes Vermögen*), gave policyholders a preferential claim on specific assets in the event of insolvency. It became the most characteristic feature of Swiss insurance law and remains in force in modernised form. The current Insurance Supervision Act still requires insurers to secure their obligations under insurance contracts through tied assets whose value must at least equal the technical provisions plus an appropriate surcharge.⁴

The legislation of 1919 and 1930 thus added a second layer to the supervisory architecture. Next to the preventive control of undertakings and products stood a system of asset segregation that operated like a statutory trust for the benefit of policyholders. Anglo-American lawyers who encounter the Swiss tied assets for the first time often compare them to a floating charge or to the statutory deposits required of foreign insurers in some American states. The comparison is imperfect because the tied assets remain the property of the insurer and form part of its general estate until insolvency. At that point they are separated from the estate and used first for insurance claims. The revised Insurance Supervision Act of 2024 preserved this principle for retail business, while allowing insurers that serve only professional policyholders to dispense with tied assets, a change discussed below.

The Second World War tested the regime again. Swiss insurers with large foreign portfolios, especially in Germany, faced blocked accounts, currency controls and the question of how to treat policies written with persecuted persons. These questions belong to the history of individual companies and to the work of the Independent Commission of Experts Switzerland – Second World War, and are not treated here. For the supervisory regime, the war years confirmed the importance of domestic asset cover and of close contact between the Federal Insurance Office and the leading companies, whose foreign business was of national economic importance.

1 Notes

1. Federal Council, Botschaft zu einem Gesetz betreffend die Aufsicht über Versicherungsunternehmen (*Versicherungsaufsichtsgesetz*, VAG) und zur Änderung des Bundesgesetzes über den

Versicherungsvertrag, 9 May 2003, BBl 2003 3789, <https://www.finma.ch/FinmaArchiv/bpv/download/e/Botschaft%20VAG%20d.pdf>. The message lists the Kautionsgesetz of 4 February 1919 and the Sicherstellungsgesetz of 25 June 1930 among the five statutes that the new Insurance Supervision Act was to replace. Swiss Re, *Geschichte der Versicherung in der Schweiz* (cited above), pp. 25–26: “Als Folge erlitten etwa 62000 Schweizer Versicherte mit rund 420 Mio. Franken Versicherungssumme einen Totalverlust.” ↩

2. Swiss Re, *Geschichte der Versicherung in der Schweiz* (cited above), pp. 25–26, which describes the relief action approved by the federal chambers in 1924 and the transfer of the German portfolio to Swiss companies. ↩
3. Federal Council, message on the VAG of 9 May 2003, BBl 2003 3789 (cited above), <https://www.finma.ch/FinmaArchiv/bpv/download/e/Botschaft%20VAG%20d.pdf>, which lists the “Bundesgesetz vom 25. Juni 1930 über die Sicherstellung von Ansprüchen aus Lebensversicherungen (Sicherstellungsgesetz, SR 961.03)” among the statutes to be replaced and explains: “In der Lebensversicherung existiert der Sicherungsfonds, in der Nicht-Lebensversicherung das gebundene Vermögen. Es handelt sich um hinsichtlich Funktion und Betrieb sehr ähnliche Institutionen.” The two were merged into the tied assets of today’s Art. 17 ff. VAG. ↩
4. Bundesgesetz betreffend die Aufsicht über Versicherungsunternehmen (Versicherungsaufsichtsgesetz, VAG), SR 961.01, consolidated version as at 1 September 2024, Art. 17–18, reproduced at <https://www.koordination.ch/fileadmin/files/or-zgb-bv-svg-zpo/vag.pdf>. ↩

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