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FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE

ALBANIA

INSURANCE CORE PRINCIPLES

DETAILED ASSESSMENT OF OBSERVANCE

FEBRUARY 2014

This report was prepared in the context of a joint IMF-World Bank Financial Sector Assessment Program mission in Albania during October - November 2013. The note contains technical analysis and detailed information underpinning the FSAP assessment's findings and recommendations.



The World Bank

Financial and Private Sector Development Vice Presidency

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Abbreviations

AFSA - Financial Supervisory Authority of Albania

AGFS – Advisory Group on Financial Stability

AIB - Albanian Insurance Bureau

BoA – Bank of Albania

CESEE ISI – Central, Eastern and South-Eastern European Insurance Supervision Initiative

DCM - Decision of the Council of Ministers

ERM – Enterprise Risk Management

FSAP – Financial Sector Assessment Program

FSVC – Financial Services Volunteer Corps

GDP – Gross Domestic Product

GDPML - General Directory for the Prevention of Money Laundering

GPW – Gross written premiums

IAIS – International Association of Insurance Supervisors

IAS – International Auditing Standards

IBNR Claims – Claims incurred but not reported

ICP – Insurance Core Principle

IDA – Insurance Deposit Agency

IEKA – Institute of Certified Public Accountant in Albania

IFRS – International Financial Reporting Standards

INSTAT – Institute of Statistics in Albania

MoET – Ministry of Economy and Trade

MoF – Ministry of Finance

MTPL – Motor Third Party Liability

MoU – Memorandum of Understanding

NAC – National Accounting Council of Albania

NAS – National Accounting Standards

NPL – Nonperforming loans

TSE – Tirana Stock Exchange

WB – The World Bank

EXECUTIVE SUMMARY

A. Introduction

1. **This assessment of Albania's compliance with the International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICP) was carried out as part of the 2013 Financial Sector Assessment Program (FSAP).** Although this is the second FSAP for Albania, this is the first external assessment of Albania's compliance with the ICPs
2. **The Albanian Financial Supervisory Authority (AFSA) has all the responsibility for insurance regulation and supervision in Albania.**

B. Information and Methodology Used for Assessment

3. **This assessment is based upon information made available to the assessor in preparation for and during the November 2013 FSAP mission.** The AFSA contributed its self-assessment and a detailed update thereof at the individual criterion level. Further sectoral information (including responses to a questionnaire sent out in advance) was provided before and during the mission. Comprehensive documentation, including all relevant laws, by-laws and regulations were (i) available on the AFSA's web-site or (ii) provided to the assessor by the AFSA's management.
4. **The assessment has also been informed by discussions with the AFSA and insurance market participants.** The assessor met with management and staff from the AFSA, and insurance companies in Tirana. The assessor is grateful for the full cooperation extended by all and, in particular, for the excellent support provided by the AFSA.
5. **The assessment employs the 2011 version of the IAIS Insurance Core Principles and Methodology revised in October 2012 and takes into account IAIS standards and guidelines.** A brief sectoral overview has been included with this assessment in addition to the accompanying Technical Note.

C. Institutional and Market Structure Overview

6. **The insurance sector in Albania remains small and underdeveloped with gross written premium of about 0.66 percent of GDP.** With insurance consumption of €20 per capita, Albania lags behind all countries of Southeastern and Central Europe. Over the last three years, the market experienced little growth in real terms mainly due to weak economic growth, lack of public awareness, low insurance education and fierce price competition

among 11 insurers who shared the market of only €64 million in gross premium written (GPW).

7. **By the end of 2012, there were 11 companies in insurance market, out of which eight non-life insurers, two life insurers and one composite company (INSIG).** Insurance Law specifically requires the separation of life from and non-life insurance, however the state-owned INSIG is allowed to perform both types of activities under the same entity until it is finally privatized. In 2012, five subsidiaries of Austrian insurance groups accounted for 63.4% percent of non-life premiums and 51.2% of life insurance premiums respectively. Licensed entities also include seven insurance brokerage companies, 17 independent claims adjusting firms and 279 individual licensed agents and 15 authorized actuaries.

8. **Despite a very low market penetration rate, the real growth of insurance premiums from 2009 to 2012 was only 3 percent, falling even below the cumulative GDP growth (7.5 percent) over the same period.** As a result, insurance penetration measured as a ratio of gross written premiums to GDP dropped from 0.69 percent to 0.66 percent from 2009 to 2012. The development of the sector has been hindered by the lax insurance regulation, low disposable incomes, poor industry record of claims performance, the lack of trust in insurance among the public.

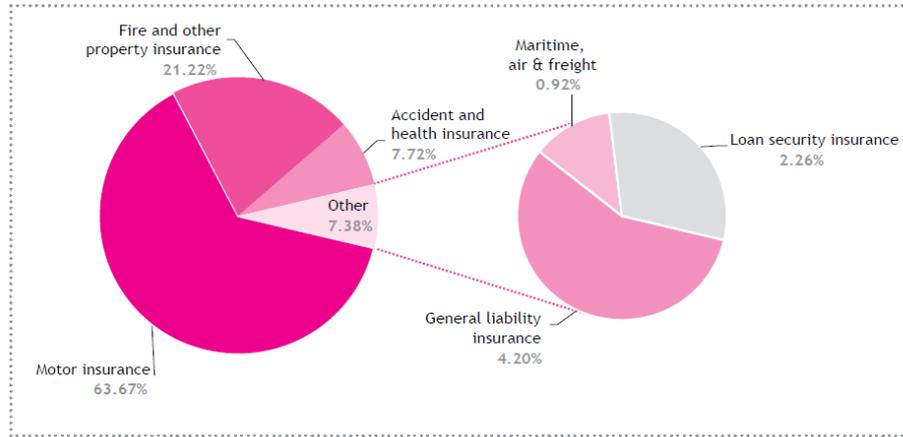
Figure 1: Insurance Penetration

Insurance Penetration	2008	2009	2010	2011	2012
Gross Premiums Written/GDP	0.65	0.69	0.67	0.62	0.66
Insurance Market Assets /GDP	1.42	1.42	1.45	1.45	1.51

Source: AFSA

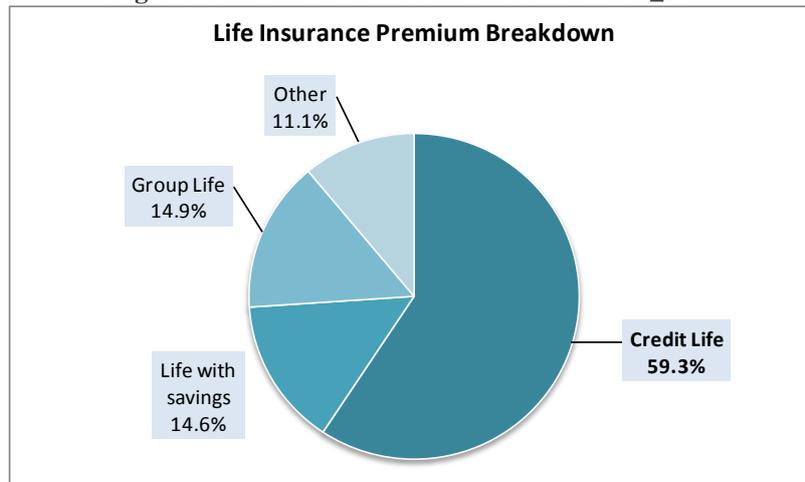
9. **In 2012, the share of life and non-life insurance in total premium was 10 and 90 percent respectively, with motor third-party liability insurance (MTPL) insurance constituting the largest share of the total non-life premium - 56.9 percent.** As shown in Figure 2 below, about 63.7 percent of premiums came from motor lines of business (both MTPL and casco), 7.7 percent from personal accident and health, 21.2 percent from property, 4.4 percent from general liability and the rest from MAT¹ and financial insurance.

¹ Marine, Aviation, Transport

Figure 2: Insurance Premium Breakdown_Non-Life

Source: AFSA

10. As shown in Figure 3 below, about 59 percent of life insurance premiums came from credit life insurance. Commercial banks require their clients to buy credit life insurance sufficient to cover the unpaid loan balance. However, in 2012 total life insurance premiums dropped by 17.3 percent compared to 2011 due to the slowdown of lending from the banks and respective decline of credit life premiums by 25 percent.

Figure 3: Life Insurance Premium Breakdown _2012

Source: AFSA

11. Although life insurers have introduced long term life insurance products with saving elements, the difficult economic conditions and the lack of insurance tradition do not bode well for a quick growth of life insurance in Albania. As shown in figure 3, the insurance revenues from such products were only 14.6 percent of a rather small life insurance portfolio which totals EUR 6.3mm. The development of life insurance would require the adjustment of current regulation with regards to the (i) calculation of mathematical reserves for long term products (no requirements for interests used in calculations) and (ii) relevant investment criteria.

12. **As shown in Table 1 below, the underwriting performance of non-life insurance sector was not good in the last five last years, despite the fact that the market claims ratio was only 45%.** While theoretically plausible, such a low claims ratio is more likely to indicate a poor claims performance by most insurers and a low level of consumer protection. As shown in the same table, around 70 percent of premiums went to cover insurers' operational expenses, which are well above the levels observed in other insurance markets of the region.

Table 1: Key Performance Indicators of Non-Life Insurance Market

Ratio	2008	2009	2010	2011	2012
Premium retention ratio (NPW/GPW)	79.5%	82.2%	84.4%	81.6%	76.9%
Claims ratio	25.7%	36.2%	32.9%	43.0%	34.5%
Expense ratio	69.0%	73.3%	64.5%	72.7%	65.1%
Combined ratio	94.7%	109.6%	97.4%	115.7%	99.6%
Operational ratio (1-profit ratio)	84.2%	91.7%	84.8%	107.0%	92.0%
Receivables ratio 1 (receivables/total assets)	9.4%	10.7%	9.1%	8.6%	9.6%
Receivables ratio 2 (receivables/equity)	17.6%	21.7%	16.8%	17.3%	20.4%
Liquidity ratio (cash and short-term investment/total assets)	50.2%	52.6%	56.8%	49.9%	46.9%
Market solvency margin ratio (surplus capital/required solvency I ca	316.0%	374.4%	439.6%	333.3%	346.0%
Premium leverage ratio (NPW/surplus capital)	71.2%	84.8%	75.2%	73.5%	76.6%
Non-life technical reserves ratio (technical reserves/NPW)	72.5%	77.0%	77.8%	96.3%	98.7%

Source: AFSA

13. **The current law defines capital and solvency criteria based on the Solvency I regime.** The market solvency ratio (measured as a ratio of surplus capital with EU Solvency I margin) above 300 percent (Table 1) indicates a highly solvent market. However, if the assessment of premiums and solvency were to be carried out on (i) properly priced policies and (ii) adequate technical provisions for all insurers, the ratio would be much lower for the market and may result below the accepted threshold for some insurers.

14. **As shown in Table 1, the non-life insurance market net retention ratio measured as ratio of net written premiums with gross written premiums is in the range of 80 percent.** The reinsurance regulation defines minimum requirements on (i) the amount of reinsurance required based on a maximum 'per risk' net retention and (ii) quality of reinsurers (and admittance of reinsurance assets) based on their credit ratings. There are no detailed procedures or criteria in place to address capital requirements in case of risk accumulation from multiple insurance contracts covering catastrophe risks (risk of earthquake) and PML²-based assessment in general. The AFSA requires cedants to be transparent in their reinsurance arrangements and management of the associated risks. However AFSA's capacity to assess the adequacy of reinsurance arrangements is limited.

15. **The AFSA has established investment regulations which address (i) capital investment and (ii) investment of assets covering technical provisions.** The regulation (i) defines investment categories for assets covering technical and mathematical provisions and (ii) sets limitations for specific types of investments. However, specific investment guidelines

² PML: Probable maximum loss (PML) is an estimate of the largest loss that a risk is likely to suffer from a single insured event after the available risk mitigation measures have been put in place.

for life insurance (assets covering mathematical provisions) are not in place. The liquidity ratio for non-life insurance market (measured as ratio of liquid assets with total assets) shown in Figure 4, is also due to the high level of cash from the state owned insurer.

Figure 4: Non-Life Insurance Liquidity Ratio

Liquidity Indicator	2008	2009	2010	2011	2012
Liquidity ratio (cash and short-term investment/total assets)	50.2%	52.6%	56.8%	49.9%	46.9%

Source: AFSA

16. **The primary legislation empowers the AFSA to conduct the supervision of insurance activities carried out by legal entities or individuals in Albania. Specifically, the legislation defines the AFSA as the sole authority responsible for conducting insurance supervision in Albania.** The governance structure is defined in the AFSA Act and further elaborated in the AFSA's internal by-laws. The highest decision-making body is the AFSA Board, consisting of 7 individuals, appointed by the Parliament. Out of seven, three members (the chairperson and two deputies) are proposed by (a) the Council of Ministers. Other Board Members are respectively proposed by: (b) Parliamentary Commission of Laws, Public Administration and Human Rights, (c) Parliamentary Commission of Economy and Finance (d) Minister of Finance, (e) Supervisory Board of the Bank of Albania (BoA), (f) National Accounting Council (NAC).

17. **The AFSA has set comprehensive requirements for the submission of regular, systematic and comprehensive financial and statistical information, actuarial reports, solvency position reports and other information from all insurers through the EBRD financed electronic reporting platform.** The AFSA may require additional information and paperwork which should be timely submitted by the insurer to ensure proper supervisory review and analysis. However, such additional requirements are not risk-driven and not based on the nature, scale and complexity of issues and identified gaps which need to be filled in.

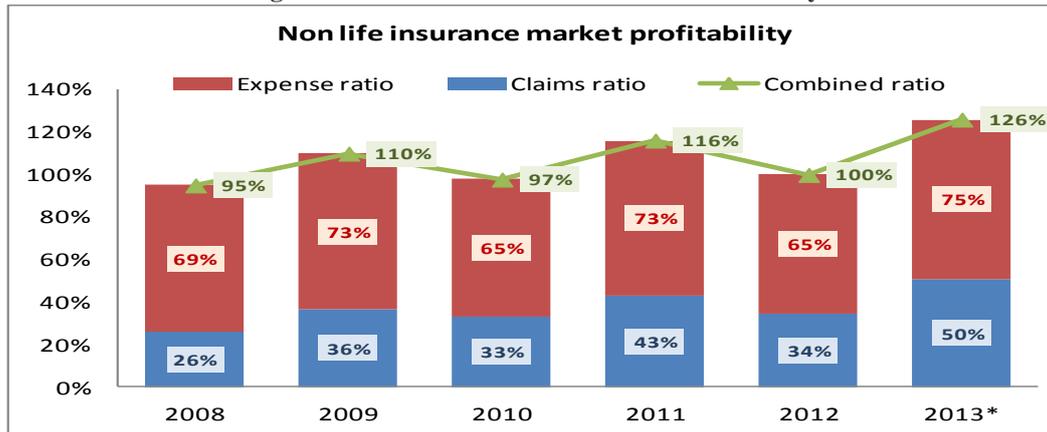
18. **Each insurer operating in the market, despite its financial or underwriting performance, is subject to the same on-site supervision regime (usually one to two inspections per year).** This approach is far from a risk-based model of supervision which would require allocation of most supervisory resources to problematic companies rather than regular annual visits to all market players. The on-site inspections are not properly guided by prior off-site risk examinations, which ideally should define the scope and areas for field inspections in problematic areas and companies. Given the AFSA's limited capacity (only two qualified insurance inspectors and limited actuarial capacity), the current approach severely impacts the quality of on-site insurance supervision.

19. **There is not sufficient capacity within the AFSA to perform adequate and timely assessment of (i) insurers' liabilities (especially technical provisions) and (ii) perform ongoing checks of their assets, based the comprehensive information reported through the electronic platform and on-going communication with insurers.**

D. Insurance Market Fundamentals

20. The underwriting performance of non-life insurance sector has been negative in four out of 6 last recent years with a major deterioration in the first half of 2013. Due to severe price competition, there was a significant deterioration in technical results in first half of 2013 – an underwriting loss of about AL 644 million, or about 26 percent of the net earned premiums for the period.

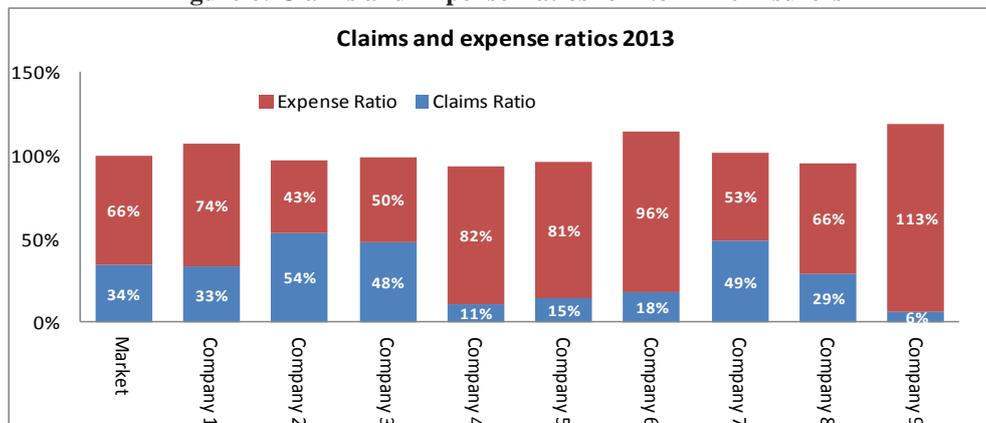
Figure 5: Non-Life Insurance Market Profitability



Source: AFSA

21. More than 70 percent of premiums cover insurers' operational expenses, which are well above the levels observed in all other insurance markets of the region. As shown in Figure 6 below, eight out of nine non-life insurers recorded combined ratios above 100 percent during the first six months of 2013, despite the fact that the market claims ratio was only 50%. While theoretically plausible, such a low claims ratio over last few years is more likely to indicate a poor claims performance by most insurers and a rather low level of consumer protection. The underwriting losses can largely be attributed to the unusually high level of expenses incurred by insurers owing to low premiums and high commissions applied in a fierce and unfair competition in the MTPL insurance market.

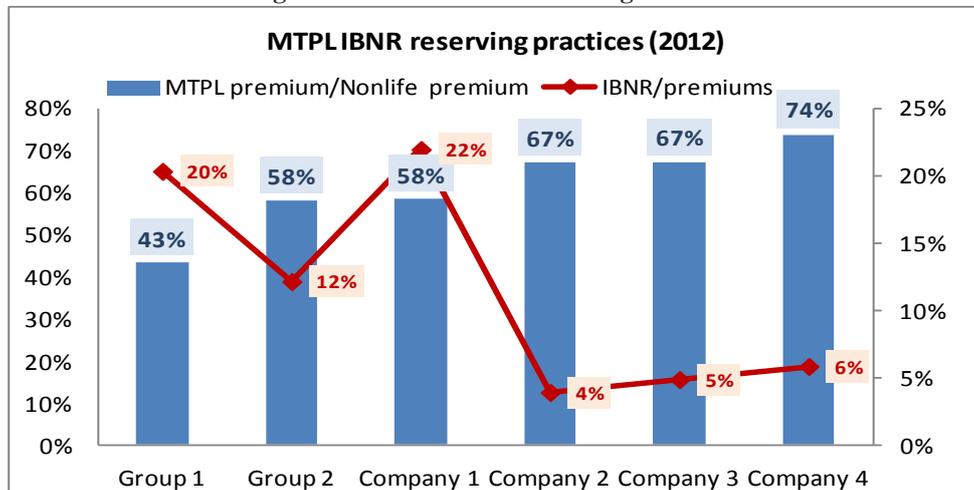
Figure 6: Claims and Expense Ratios for Non-Life Insurers



Source: AFSA

22. **Unchecked by regulatory constraints on minimum technical provisions, insurance companies have been aggressively competing on price of most common insurance products without regard to their solvency or profitability.** Although the market as a whole appeared to be highly solvent in 2012, this may not be the case for all insurers, and particularly those which have made MTPL their main line of business. As shown in Figure 7 below, in 2012, the ratio of IBNR claims reserves relative to MTPL premiums varied greatly from company to company, despite the fact that all companies were writing virtually identical homogenous MTPL business. Better diversified insurers reserve substantially higher IBNR amounts relative to their MTPL volumes of business compared to their competitors which write mainly MTPL business (more than 65 percent). Due to the inadequate reserving, the industry is likely to suffer from the ongoing reputational risk of poor claims performance which may hamper its further growth and development at least in the near future.

Figure 7: MTPL IBNR Reserving Practices

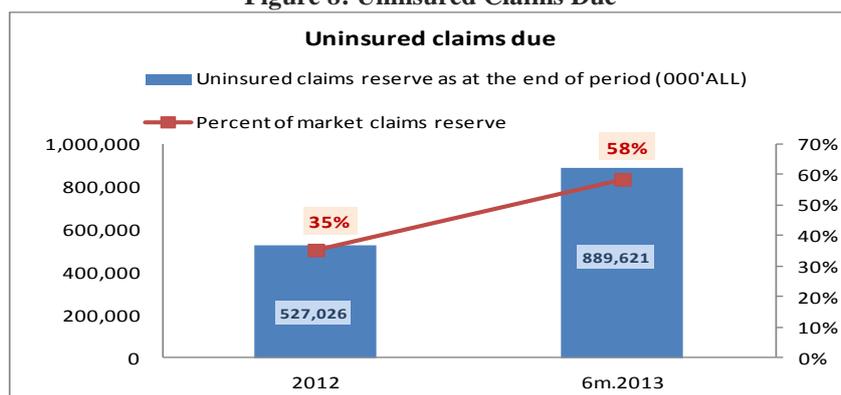


Source: AFSA

Note: Companies belonging to the same international groups are grouped together

23. **The growing number of uninsured claims may severely impact insurers' credibility, solvency and the financial stability of the market.** As shown in figure 8 below, the industry Compensation Fund, which guarantees payments to consumers injured by uninsured drivers, is currently ALL 890 mm (EUR 6.5 mm) short of funding its technical provisions – the liability to be yet covered by individual insurers. In June 2013, the unfunded market liability arising from uninsured claims was about 60 percent of the total MTPL claims reserve for the entire market. As no reserve was established at the Compensation Fund to finance such large obligations, the MTPL insurers will have to cover this liability proportionately to their respective market shares out of their own already overstretched balance sheets. If properly accounted for in the financial statement of insurers, these uninsured claims obligations would have a highly adverse impact on the solvency position of several insurers.

Figure 8: Uninsured Claims Due



Source: AFSA

24. **Albania is highly vulnerable to natural disasters and climate change. Yet, there is a significant earthquake risk accumulation in insurers' balance-sheets, a major part of which comes from insurance of properties used as loan collateral by local banks.** Through this insurance coverage, a typical earthquake portfolio of a small size insurer with minimum capital (EUR 3mm) gets exposed to a risk accumulation of about EUR 380 mm of earthquake risk mainly in Tirana. Such risk accumulations require proper capacity to ensure that claims are paid in full and insurer remains solvent after the earthquake, which currently is often not the case due to very expensive (hence unaffordable) catastrophe reinsurance for rather small earthquake insurance portfolios with minimum rates-on-line applying despite low business volumes.

E. Insurance Supervision Challenges

25. **The IAIS assessment conducted as part of this FSAP found that Albania's legal and regulatory framework for the insurance industry is only partially compliant with most IAIS requirements.** Despite the establishment of the Albanian Financial Supervisory Authority (AFSA) in 2006 and enactment of supporting insurance laws and regulations, the supervision of the Albanian insurance market has been light. As a result, local insurance companies have been engaged in a never ending price war for its most common products, which overtime has led to decreased volume of premium written, considerably increased risk exposure and negative profitability. On the consumer side, the deteriorating health of insurers manifests itself in the reduced average amount of payment per claim and the increased waiting time to receive indemnification payments.

26. **The institutional setup of insurance supervision and supporting legislation has proven to be largely ineffective due to the lack of real independence, severely constrained financial resources, absent representation in the law-making process and the acute shortage of qualified personnel.** Despite receiving significant supervisory fee income from the industry, the AFSA has been prevented by the Law on Public Administration and the Civil Servants Law from bringing the level of compensation for technical staff of the agency closer to that offered in the private insurance market or hiring

more employees. As a result of strict limitations imposed by the government's salary scale and hiring practices, AFSA suffers from a very high turnover of personnel³, which invariably leads to the shortage of technical expertise (e.g. actuarial skills, qualified on-site insurance inspectors) and seriously impacts the quality of insurance oversight.

27. Despite its nominal independence as laid out in the AFSA Law, its supervisory powers have been severely constrained by the rigid rule-based Insurance Law, which prevents the agency from issuing insurance by-laws to address the constantly evolving needs of insurance supervision. The new draft Insurance Law prepared as early as 2011 is yet to be cleared by Government for consideration by the Parliament.

28. Despite the scarcity of experienced technical personnel in its on-site supervision unit (only two inspectors with 6 years of experience supervise three markets), AFSA does not prioritize its on-site inspections based on the risk profile and past record of regulatory compliance of insurance companies. Instead, every company is inspected at least once a year – the practice which further detracts from the already fragile quality of insurance supervision.

29. The AFSA does not have either the legal mandate nor the sufficient technical capacity to control the adequacy and effectiveness of insurers' corporate governance. Due to the lack of a risk based supervisory regime, insurers are not required to adopt appropriate policies and procedures with regards to (i) maintaining effective operations in compliance with their strategy and guidelines, (ii) introducing sound risk management practices and fair treatment of consumers, (iii) introducing adequate management information systems to ensure timely monitoring of risk exposures and the performance of Senior Management.

30. Due to its high-quality web-based market data collection system, the AFSA has been able to largely observe all IAIS ICPs dealing with information disclosure, data sharing and transparency. The agency has also been by and large transparent in its supervision process and accountable to the public.

31. The existing legal framework for insurance supervision has been eroded over time by enactment of conflicting with other laws and regulations. Albania's rule-based insurance laws are now out of date and do not comply with the risk-based insurance supervisory requirements underpinning IAIS ICPs as the pending legislative amendments proposed by the AFSA to the current insurance (and related) legislation have not been enacted. Although a Risk-Focused Manual was prepared with Bank's assistance, there is no legal ground to enable its implementation.

32. AFSA's authority to regulate the market is further undermined by the ability of insurance companies to easily suspend its rulings in court by means of filing an appeal.

33. Although Albania adopted the relevant AML/CFT regulatory framework for the financial sector, the insurance sector specific AML laws and regulations have not been enacted. Thus the AFSA currently neither has a legal mandate nor a specially

³ The average tenure of staff in on and off-site supervision unit of FSA is only 1.7 years.

designated unit (with qualified staff) to supervise the AML related aspects of insurance market operations. A similar problem exists with detecting, monitoring and supervision of fraud in the insurance sector, as the AFSA does not have the legal authority for discharging this mandate. As a result, the assessment found the AFSA to be only partially compliant with these ICPs.

34. The broad series of weaknesses in insurance supervision identified during the FSAP assessment act as a drag on growth of the insurance industry in Albania. In the absence of decisive concerted government and legislative actions, the financial fundamentals of insurance industry in Albania are likely to deteriorate to a point, where non-payment of claims will become a common practice, while the solvency of most companies in the market will become a major suspect. With the growing competitive pressures in the market, unchecked by vigorously enforced regulatory requirements on technical provisions, the already unsatisfactory rate of return on capital invested in insurance companies, is likely to drop even further, thus making the industry unattractive to investors representing large international insurance groups.

35. Major institutional reform will be needed to achieve AFSA's financial and operational independence and turn it into an effective regulator of the local insurance market. Due to its lack of authority and the financial flexibility to use its resources at its disposal to retain qualified technical staff, the AFSA's ability to carry out effective supervision has been limited.

F. Recommendations

36. The following detailed technical recommendations were provided by the FSAP Mission after a thorough assessment of (i) insurance market fundamentals and (ii) challenges of current insurance supervision in Albania

37. Reform the current institutional and legal set-up of the insurance supervisory authority by: (a) empowering it to sponsor and present to the Parliament new insurance laws, by-laws and amendment to the existing laws, if required; (b) make the AFSA exempt from the Law on Public Administration, which renders the agency an extension of the government, thereby thwarting its ability to fulfill its mandate; (c) pass the amendments to the AFSA law which would empower the agency to offer competitive compensation terms to its technical staff and thus enable it to attract experienced and qualified insurance professionals from the market; (d) change the agency's horizontal administrative structure by creating technical positions responsible only for insurance supervision; (e) enable the AFSA to retain independent insurance consultants from the industry to urgently address its acute need for highly qualified experienced actuaries and IT specialists.

38. Enact the pending drafts of insurance legislation such as the draft Insurance Law and the draft MTPL insurance law, which will enable AFSA to bring its regulatory practices and regulatory framework closer in line with the IAIS requirements and introduce risk based by-laws and regulations to address current challenges:

- Introduce the risk based “early warning” claims performance and solvency requirements which would require companies to (a) timely meet insurance liabilities arising from insurance contracts and (b) maintain a capital buffer over and above the minimum solvency requirement.
- Adopt appropriate requirements with regards to (i) corporate governance and sound risk management practices and (ii) adequate management information systems to ensure timely monitoring of insurer’s risk exposures as well as the performance of its senior management.
- Develop an internal insurers’ risk rating system for the purposes of efficiently allocating scarce supervisory resources to the most problematic companies and areas of operations.
- Develop detailed inspection manuals for thematic regulatory inspections to provide for targeted and quick supervisory action.
- Prepare and enact relevant and regulations on life insurance which are currently not in place with outsourced technical assistance from highly qualified life insurance experts, and introduce a nation-wide earthquake insurance program for homeowners compliant with catastrophe risk management requirements.

39. **Prepare and enact relevant regulations on management of earthquake risk which are not current in place and introduce a nation-wide earthquake insurance program for homeowners.** *Please refer to Annex 1 (attached and integral part of this document) for additional information on the impact of earthquakes on consumers, financial sector and country's economy.*

40. **Undertake immediate MTPL market stabilization measures by establishing minimum reserving standards based on market-wide claims performance and ensure proper funding of reserves.** These special stabilization measures designed to immediately address the poor claims payment performance by most insurers, should be phased out over time in response to visible improvements in the market fundamentals. All necessary amendments to the MTPL law should be done in consultation with the insurance market.

41. **Carry out a market-wide study of companies’ MTPL reserving practices with the view to understanding the industry historic claims development patterns and drafting a by-law on the minimum regulatory requirement to technical provisions (IBNR) for the MTPL line of business.** The reserving requirements and the underlying actuarial methodology (a) shall support the implementation of sound claims performance by all insurers in the market and (b) should be supported by a detailed reserving supervision manual and relevant automated IT supervisory tools.

42. **To guarantee proper level of provisions, the AFSA should immediately restore the funding of the Compensation Fund** which until now has not been funded by member insurance companies. The insurance companies should be required to immediately finance

the outstanding liabilities of the Fund and ensure proper and timely payment of claims arising from uninsured vehicles, as required by the law.

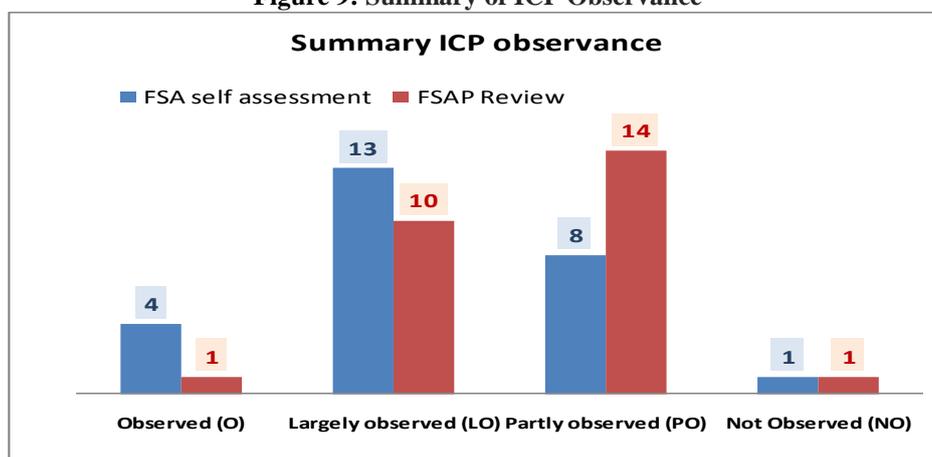
43. **To address the social and fiscal impact of natural disasters, mitigate the impact of MTPL stabilization measures on insurers, and support the growth of insurance market, we recommend (a) establishment of a national compulsory earthquake insurance program, (b) introduction of liability insurance requirements for various professional services and (c) waging VAT requirement for at least non-compulsory insurance products.** *Despite being heavily exposed to earthquakes, the earthquake insurance for homeowners is almost non-existing, thus leaving homeowners and the government financially vulnerable to natural disasters.*

44. **Introduce a legal mandate for the AFSA and provide it with the necessary financial and human resources to supervise compliance of the insurance market with the AML and CFT regulations.**

G. Observance of IAIS Insurance Core Principles

45. **The detailed IAIS ICP assessment conducted as part of this FSAP concluded that Albania's legal and regulatory framework for the insurance industry is only partially compliant with most IAIS requirements.** As shown in Figure 9 below, fifteen principles out of twenty six were scored either partly or not observed.

Figure 9: Summary of ICP Observance



Source: AFSA Self Assessment on ICP Observance and Assessor's Estimates

Summary ICP Observance

46. Assessor's comments on the observance of each ICP are provided in Table 1 below:

Table 2: Assessor's Comments on ICP observance

Insurance Core Principle (ICP)	SCORE	Comment
ICP1 Objectives, Powers and Responsibilities of the Supervisor	PO	<p>The legislation defines clear supervisory objectives, however, the AFSA's responsibilities, powers and effectiveness to discharge insurance regulatory and supervisory functions are only partially satisfactory due to its: a) inability to timely intervene in main legislation and b) insufficient institutional capacity due to several restrictions (e.g. inability to restructure the organization and financial limitations).</p> <p>The AFSA cannot directly initiate changes in main legislation. Although the AFSA is fully financed by the market, its organizational structure (number and positions) and the remuneration are decided by the Parliament.</p>
ICP2 Supervisor	PO	<p>Out of five main criteria listed in this ICP, only the protection of information can be considered as largely met. The AFSA's independence, accountability and professionalism are hindered by the lack of (i) flexibility to amend the legislation, (ii) authority to take timely action, and (iii) adequate institutional capacity to oversee the market.</p> <p>The regulator will have to wait for years until the legislation is amended properly, while it cannot guarantee the stability of the institution and retain qualified technical experts due to the organizational and financial limitations imposed by the current legal framework. But even then, the ultimate outcome is not guaranteed due to AFSA's inability to influence the legislative process.</p> <p>The AFSA's officials are not immune from legal action that might be brought in by disgruntled insurers.</p>
ICP3 Information Exchange and Confidentiality Requirements	LO	<p>Law and regulations enable cross sharing of information with other regulators. However the requirements of ICP3 are not specifically addressed by the law. MoU's with other supervisors comply with the IAIS terms which take into account the ICP requirements.</p>
ICP4 Licensing	LO	<p>The law and regulations set out detailed licensing criteria in line with the requirements for this ICP. The AFSA is the responsible authority for licensing all insurance operators.</p> <ul style="list-style-type: none"> ▪ The legislation clearly defines requirements and procedures with

		<p>regards to licensing of insurance activity and provides a level playing field for every applicant.</p> <ul style="list-style-type: none"> ▪ Licensing requirements and procedures are clear, objective and public, and are consistently applied. ▪ The law clearly defines capital and solvency criteria based on the Solvency I regime. ▪ Minimum fit-and-proper criteria apply to the proposed Board Members and senior management; ▪ Shareholders must provide information with regard to the source of the establishment capital; ▪ Approval from home supervisor is required in case of subsidiaries of foreign companies. <p>However, the technical capacity of the regulator to check full compliance of documentation submitted by license applicants is limited.</p>
<p>ICP5 Suitability of Persons</p>	<p>LO</p>	<p>The legislation sets general suitability criteria for insurance companies' shareholders, supervisory board and senior management. Changes in shareholders and managing bodies of an insurance company should be approved by the AFSA. Yet, the legislation has to be further detailed in respect to requirements related to criminal records of shareholders.</p> <p>The AFSA can exchange information with the home supervisors of foreign insurers operating in Albania (through local subsidiaries) to confirm the suitability of Board members, senior management, key persons in control functions and significant owners of an insurer.</p>
<p>ICP6 Changes in Control and Portfolio Transfers</p>	<p>LO</p>	<p>Supervisory approval is required to acquire significant ownership (10% or more) or an interest in an insurer. All changes in ownership require the AFSA's consent through the submission and acceptance of the new Charter.</p> <p>When foreign investors are involved, supervisors from country of origin must provide their consent. Portfolio transfer requires AFSA's approval.</p> <p>However, the legislation does not specifically require a favourable opinion on the transaction from a qualified actuary and there is not enough capacity at the AFSA to assess the adequacy of reserves and assets that accompany the transferred portfolio.</p>
<p>ICP7 Corporate Governance</p>	<p>PO</p>	<p>There is no requirement that the Board must be composed of people with adequate level of knowledge, skills and expertise commensurate with the governance structure and the nature, scale and complexity of the insurer's business.</p> <p>There are no clear requirements on a) the risk management function and b) specific procedures that have to be set by insurers for their day-to-day operations with regards to monitoring and performance of risk exposures, treatment of consumers, performance of senior management, proper communication with stakeholders, and the regulator.</p> <p>There are no requirements to insurers to adopted appropriate policies and procedures with regards to (i) maintaining effective operations in compliance with their strategy and guidelines, (ii) introducing sound risk management practices and fair treatment of consumers, (iii) introducing adequate management information systems to ensure timely monitoring of</p>

		<p>risk exposures and the performance of Senior Management.</p> <p>The AFSA does not either the legal mandate nor the sufficient technical capacity to control the adequacy and effectiveness of insurers' corporate governance.</p>
<p>ICP8</p> <p>Risk Management and Internal Controls</p>	<p>PO</p>	<p>The law and regulations specify criteria on capital/solvency, technical reserves, investments, reinsurance, etc. Companies report them on a quarterly basis (annually for life). The current law specifically requires internal audit and actuarial functions (although independence is an issue).</p> <p>The current criteria are not risk-based and do not support the effective risk management function necessary to identify, assess, monitor, manage and report on key risks in a timely fashion.</p> <p>The current law does not address the issue of risk accumulation due to catastrophe risk insurance.</p>
<p>ICP9</p> <p>Supervisory Review and Reporting</p>	<p>PO</p>	<p>The ability of AFSA to supervise the market is severely constrained by the lack of qualified personnel. Despite the scarcity of technical resources, their allocation is not determined by the nature, scale and specific risks of each insurer.</p> <ul style="list-style-type: none"> ▪ The on-site inspections are not properly guided by prior off-site risk examinations, which ideally should define the scope and areas for field inspections in problematic areas and companies. ▪ Given the AFSA's limited capacity (only two qualified insurance inspectors and limited actuarial capacity), the current approach severely impacts the quality of on-site insurance supervision. ▪ There is not sufficient capacity within the AFSA to perform adequate and timely assessment of (i) insurers' liabilities (especially technical provisions) and (ii) ongoing checks of their assets, based the comprehensive information reported through the electronic platform and on-going communication with insurers. <p>There is a high quality reporting and data collection system, which is in line with the international standards.</p>
<p>ICP10</p> <p>Preventive and Corrective Measures</p>	<p>PO</p>	<p>Although the law describes preventive and corrective measures commensurate with the severity of the insurer's problems, it does not provide the AFSA with ability for timely interventions, particularly in cases dealing with insolvency.</p> <p>The AFSA can take administrative measures to prevent the violations of the law. However the rule-based supervisory regime makes it difficult to timely trigger the corrective regulatory action when the evidence of violation is not entirely clear. In addition, there is limited capacity to understand the extent of problem when it comes to capital adequacy related matters.</p>
<p>ICP11</p> <p>Enforcement</p>	<p>PO</p>	<p>The enforcement of AFSA decisions is undermined by the ability of insurers to challenge AFSA's rulings in court, which can suspend such decisions for an indefinite period of time, even prior to hearing the case.</p> <p>On average, it takes 3-6 months to address severe cases of insolvency and even then, it is not guaranteed that the solvency will be fully restored.</p>

		The courts may suspend AFSA's decisions for an indefinite time (sometimes for years) which can result in insolvency situations causing a major adverse impact on consumers and insurance companies.
ICP12 Winding-up and Exit from the Market	LO	Procedures for winding up and exit from the market are clearly defined in the law and provide for adequate protection of policyholders in the case of an exit. The legislation provides for the determination of the point at which it is no longer permissible for an insurer to continue its business. However, the immediate enforcement with regards to writing new business or asset infringement may be obstructed by the suspension of AFSA decision by the courts, if the later misinterpret the provisions of the Civil Procedure Code. Nevertheless, in the absence of insolvencies in the history of the Albanian market, the possibility of such a suspension of an AFSA decision to infringe assets of an insolvent insurer remains theoretical, as the courts will find it very difficult to misinterpret the provisions of the Civil Procedure Code for insolvencies related to the financial sector due to their major adverse public impact.
ICP13 Reinsurance and Other Forms of Risk Transfer	PO	<p>The current regulation determines a set of rules on a 'per risk net retention' basis and prescribes the minimum credit quality of participating reinsurers. However, it does not address the issue of risk accumulation from multiple insurance contracts covering catastrophe risks (risk of earthquake) and PML-based assessment in general.</p> <p>The AFSA does not have sufficient reinsurance expertise to assess the insurers' compliance with the reinsurance regulation.</p>
ICP14 Valuation	PO	<p>AFSA carries out insurance supervision under a rule-based approach. Therefore the calculation of the Solvency margin (EU S1) and valuation of assets and liabilities are not compliant with the risk-based approach. Valuation of technical provisions (regulatory and practical) does not properly address the time value of money.</p> <p>There are no statutory prescribed discount rates for the calculation of mathematical life reserves.</p> <p>In addition, the valuation of claims provisions is not grounded in appropriate actuarial assessment of historic claims development patterns.</p> <ul style="list-style-type: none"> • Based on the current law, the technical provisions are certified by actuaries authorized by the AFSA, however, in practice the actuaries obey to management decisions with regards to the amounts of reserves. • Although the regulation requires independent review of technical reserves from external auditors, however their job is not as easy under the lack necessary detailed data required for a proper assessment of reserves. <p>Economic valuation is not observed in the absence of the RBS approach..</p>
ICP15 Investment	LO	<p>The AFSA has established investment regulations which address (i) capital investment and (ii) investment of assets covering technical provisions. The regulation (i) defines investment categories for assets covering technical and mathematical provisions and (ii) sets limitations for specific</p>

		<p>types of investments.</p> <p>However, specific investment guidelines for life insurance (assets covering mathematical provisions) are not in place. Specifically, the ALM regulations should be developed to provide for interest, currency and duration matching.</p>
<p>ICP16</p> <p>Enterprise Risk Management for Solvency Purposes</p>	<p>NO</p>	<p>The requirements of ICP 16 cannot be met in Albania until it adopts a comprehensive risk-based supervisory approach. In the absence of the risk-based supervisory regime, enterprise risk management cannot be implemented.</p> <p>There are no requirements for risk measurement or explanations on internal measurement approaches and key assumptions made by companies to assess their risks. The law does not require companies to have their risk management policies clearly articulated.</p>
<p>ICP17</p> <p>Capital Adequacy</p>	<p>PO</p>	<p>Although the current regulation has established capital adequacy requirements for solvency purposes, the current solvency regime (S1) does not provide for capital adequacy requirements for solvency purposes to enable (i) proper (risk sensitive) solvency assessment and (ii) timely supervisory intervention.</p> <p>The total balance-sheet approach is not required by the current regulatory regime. The concept of 'Prescribed Capital Requirement (PCR),' which requires a specified level of safety over a defined time horizon, is not observed in the current regulation.</p>
<p>ICP18</p> <p>Intermediaries</p>	<p>LO</p>	<p>There are regulations in place for licensing intermediaries which include fit-and-proper criteria (professional and integrity requirements) and financial requirements. However, there are no training materials for insurance and reinsurance brokers to be used in the preparation for the licensing exams.</p> <p>The Act on Insurance and the respective by-law clearly spell out disclosure requirements which include: explanations and advice on policy terms and conditions, contract time periods, limitations or exclusions, insurance premium, and relations with the insurer.</p> <p>The AFSA requires an insurance intermediary who handles client money to have sufficient safeguards in place to protect these funds.</p> <p>On-site inspections of intermediaries are rare and poorly structured (no inspection manuals).</p>

<p>ICP19</p> <p>Conduct of Business</p>	<p>LO</p>	<p>The current regulation sets general business conduct requirements such as product transparency (information on rights, obligations and financial aspects of insurance contracts).</p> <p>While life insurance is still in its nascence, additional regulations are required for disclosure and transparency when selling life insurance products such as unit link insurance where the client shares investment risk with insurer, or long-term products with the guaranteed savings part.</p> <p>The AFSA has developed a) claims settlement guidelines and regulations and b) complaints procedures. However, the practical enforcement of such regulations is yet to be improved through introduction of additional market stabilization and consumer protection measures to ensure proper and timely payment of insurance claims.</p>
<p>ICP20</p> <p>Public Disclosure</p>	<p>LO</p>	<p>The AFSA collects ample information on the insurance market and on the ongoing basis discloses it to the public. Annual financial statements are made available to the public directly by insurance companies. However, as per ICP requirements, more detailed financial information on insurers should be disclosed to the public.</p>
<p>ICP21</p> <p>Countering Fraud in Insurance</p>	<p>PO</p>	<p>There is no specific regulation or provision in the existing insurance law related to combating insurance fraud. There is no fraud database. The regulator has limited capacity to deter, prevent, detect, report and remedy fraud.</p>
<p>ICP22</p> <p>Anti-Money Laundering and Combating the Financing of Terrorism</p>	<p>PO</p>	<p>There is no specific regulation or provision in the existing insurance law regarding anti money laundering. There is no designated unit in the AFSA to address the AML⁴ issues.</p> <p>Although three AFSA employees received some basic training on the subject, still there are no on-site inspection manuals or guidelines that could be used by the AFSA in conducting market supervision. The AFSA received the mandate to address the AML issues only recently.</p>
<p>ICP23</p> <p>Group wide Supervision</p>	<p>PO</p>	<p>The current law does not address the issue of group-wide supervision. The cooperation has been recently established (MoUs signed) in recent years with home group supervisors (Austria) or host regulators for subsidiaries of Albanian companies (Macedonia, Kosovo).</p>
<p>ICP24</p> <p>Macroprudential Surveillance and Insurance Supervision</p>	<p>LO</p>	<p>Although the current regulation does not address potential systemic risks such as potential liabilities arising from improper catastrophe insurance underwriting and risk management, aviation risks, or underestimation of life insurance reserves, which may lead to potential financial stability risk, a strategy has already been developed by the AFSA to deal with these risks.</p>
<p>ICP25</p> <p>Supervisory Cooperation and Coordination</p>	<p>O</p>	<p>The current regulation does not address group-wide supervision. However, effective cooperation has been established with supervisors of other countries. To that effect, MoUs have been signed and the AFSA has been invited to become part of supervisory colleges.</p>
<p>ICP26</p> <p>Cross-border</p>	<p>PO</p>	<p>Although the cross border cooperation exists, in practice the AFSA does not have the mandate to look into contingency plans and operational risk management of insurers under the current law due to the lack of the RBS.</p>

⁴ AML: Anti Money Laundering

Cooperation and Coordination on Crisis Management		The AFSA's limited capacity (due to inability to effectively organize its activities and hire experienced professionals) prevents it from conducting proper and timely assessment of insurers commensurate with the nature and complexity of risks.
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Detailed ICP Observance

47. Assessor's detailed assessment on the observance of each ICP are provided in Table 2 below:

Table 3: Detailed Assessment of ICP Observance

ICP 1	<p>Objectives, Powers and Responsibilities of the Supervisor</p> <p>The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.</p>
Description	<p>The primary legislation empowers the AFSA to conduct the supervision of insurance activities carried out by legal entities or individuals in Albania. <i>Specifically, the AFSA Act (article 2) and the Act on Insurance (article 120) define the AFSA as the sole authority responsible for conducting insurance supervision in Albania.</i></p> <p>Main objectives of insurance supervision comprise: (a) promoting the stability, transparency and credibility of the non-bank financial sector, (b) safeguarding consumers and investors' protection through (c) proper enforcement of laws and regulations. <i>(AFSA Act, article 12 and Act on Insurance, article 120)</i></p> <p>The legislation defines the AFSA's mandate and further details its tasks and responsibilities which include: (i) licensing of insurance operators, (ii) issuing insurance regulations, (iii) conducting off-site and on-site supervision; (iv) enforcing laws and regulation through corrective or punitive measures <i>(see articles 12, 13, 14, 31 and 32 of the Act on the AFSA and chapters III, VI and VIII of the Act on Insurance)</i>. However, the regulation does not specifically address issues related to insurance group supervision.</p>
Score	PO
Comments / Rationale	<p>The legislation defines clear supervisory objectives, however, the AFSA's responsibilities, powers and effectiveness to discharge insurance regulatory and supervisory functions are only partially satisfactory due to its: a) inability to timely intervene in main legislation and b) insufficient institutional capacity due to several restrictions (e.g. inability to restructure the organization and financial limitations).</p> <p>The AFSA cannot directly initiate changes in main legislation and cannot guarantee that the requested legislative changes will be considered and enacted by the Parliament. The Civil Code stipulates that suspension can only take place in specific cases where the decision may cause irrevocable severe damage to defendant. However, in practice any supervisory measure can be easily suspended without even being properly considered by the courts.</p> <p><i>The AFSA has recently proposed changes in the legislation (amendments to the AFSA Act and enactment of a new Draft Insurance Law) to address independence and performance issues.</i></p>

ICP 2	<p>Supervisor</p> <p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> • is operationally independent, accountable and transparent; • protects confidential information; • has appropriate legal protection; • has adequate resources; • meets high professional standards.
Description	<p>The current primary legislation does not provide the AFSA with a <i>sufficient</i> degree of supervisory, operationally and regulatory independence required to operate in a transparent and accountable way.</p> <ul style="list-style-type: none"> • <i>Independence, accountability resource adequacy, professional standards</i> <p>The governance structure is defined in the AFSA Act and further elaborated in the AFSA's internal by-laws. The highest decision-making body is the AFSA Board, consisting of 7 individuals, appointed by the Parliament. Out of seven, three members (the chairperson and two deputies) are proposed by (a) the Council of Ministers. Other Board Members are respectively proposed by: (b) Parliamentary Commission of Laws, Public Administration and Human Rights, (c) Parliamentary Commission of Economy and Finance (d) Minister of Finance, (e) Supervisory Board of the Bank of Albania (BoA), (f) National Accounting Council (NAC).</p> <p>The internal audit follows the rules of internal auditing in public sector which require appliance of the IIA standards. The AFSA Board has approved the Internal Audit Chart and Internal Auditor's Code of Ethics. Internal audit unit reports directly to the Board / Chairperson and provides information to the Central Unit for the Harmonisation of Internal Auditing established under the authority of the MoF. The Act on the AFSA gives the Parliament the right to appoint its external auditor.</p> <p>The AFSA Act defines the powers and responsibilities of the Board members, Chairperson and deputy chairpersons. The organizational structure is proposed by the Board and approved by the Parliament following a process of review by the MoF and the Department of Public Administration (<i>Act no. 9584, dated 17.07.2006, articles 1, 2, 9 & 10</i>). The AFSA's internal regulations provide further details (i) on the duties and responsibilities of the AFSA's management (ii) the job descriptions and the reporting hierarchy. Non-executive Board members can be part of <i>ad hoc</i> control committees established by the Board to deal with specific issues, as appropriate.</p> <p>The Act on AFSA (<i>articles 5, 6, 7, 8</i>) provides fit and proper criteria and clear procedures with regard to the appointment and dismissal of the Chairperson and other Board members. The following fit and proper criteria apply to the nomination of a Board member:</p> <ul style="list-style-type: none"> - Albanian citizenship; - a relevant university diploma; - individual and professional integrity; - not being a high rank official in any political parties; - clean criminal records; - compliance with legal provisions related to conflict of interest; - not involved in any other professional activities, except for teaching and research (<i>applicable to executive Board members only</i>); - can participate only in one additional Board of another supervisory authority. <p><i>All Board members are required to declare their compliance with fit and proper criteria before commencement of their duties.</i></p>

The Act on the AFSA defines reasons for the dismissal of a Board Member as follows: resigning from the Board;

- becoming physically unable to perform their tasks for at least three months;
- breaching confidentiality;
- lack of participation in three consecutive board meetings without a reasonable motive;
- professional incompetence or failure to perform their duties with impact to the Authority or its independence;
- non compliance with fit and proper criteria due to new circumstances;
- loss of Albanian citizenship.

Reasons and evidence must be provided to insurance company in case of a Board member dismissal. However, the regulation does not require the public disclosure of the reasons behind such a dismissal.

The Law on the AFSA addresses issues related to conflict of interest for the Board and the staff of the AFSA. The legislation defines the AFSA as an independent authority specialized on financial supervision, implying that the supervisor and its administrative staff must be free from interference in the performance of supervisory responsibilities (see article 3 of the AFSA Act). The same Act (articles 5 and 20) addresses issues related to conflict of interest, individual and professional integrity. The Code of Ethics and professional standards were also approved by the Board.

Based on the Act on the AFSA, the recruitment and treatment of the AFSA's staff should follow the provisions of the Labour Code. The same act specifies that the Board has the right to (i) hire staff, propose remuneration policy and a draft budget of the institution (*articles 14, 15, 20, 21*) and (ii) contract consultancy services from outsourced experts (*article 14, item 21*). However, the Act on Salaries and Organizational Structures of the Independent Institutions (*no. 9584, dated 17.07.2006*) and the Act on Civil Servants (*no. 152, dated 04.06.2013*), have practically stripped the AFSA Board of such powers, thereby restricting its ability to hire and maintain qualified staff and effectively use its financial resources.

The AFSA's independence is hindered by its limited power to allocate adequate resources for conducting insurance supervision. Its organizational structure (staff count and description of staff positions) are decided by the Parliament. Although the AFSA is fully financed by the supervised entities (through fees and contributions defined in relevant legislation), the remuneration of its staff is determined by the law on salaries for independent institutions and respective by-laws. Under such circumstances, the AFSA is not able to attract or maintain professional resources required for insurance supervision purposes.

- **Transparency:** The AFSA introduces new secondary regulations or amendments to the existing ones on regular basis. The drafts are discussed with the industry and posted on the website for public review and comments (<http://amf.gov.al/projekte.asp>). The requirements and procedures of the supervisory authority are by and large clear and made available to supervised entities (*article 11 of the Act on AFSA*).

The AFSA publishes statistical and financial information on the insurance sector on a regular basis. Its main publications comprise:

- AFSA annual report with information on its regulatory and supervisory activities and developments of supervised market;
- a market supervision report with comprehensive market financial information;
- a statistical report with monthly updates on the insurance sector and its participants;
- insurance geography, and other informative brochures and newsletters.

Such information is publicly available at the AFSA comprehensive web-site (www.amf.gov.al)

	<p>and several reports are distributed in hard copies to interested parties. In addition, the AFSA publishes its official bulletin with all Board decisions.</p> <p>The AFSA's financial statements are audited on an annual basis. However, only the opinion of the external auditor is published in the annual report, without further disclosing the accounts themselves.</p> <ul style="list-style-type: none"> • Confidentiality of information: The current legislation defines clear criteria on data confidentiality and circumstances under which the information can be disseminated/disclosed (<i>articles 24 & 25 of the Act on the AFSA</i>). The AFSA Board defines rules for classification, declassification and dissemination/disclosure of the information. The confidential information can be disclosed to the judicial authority or intelligence services in adherence to the provisions of applicable legislation. The AFSA may also disclose information to other supervisory authorities based on the conditions set forth by the mutual agreements, and in compliance with the applicable laws. In any case, the provisions of the Act on Personal Data Protection apply accordingly. <p>The AFSA Act specifies that individuals who breach the confidentiality rules are subject to administrative measures that may include firing and dismissal (<i>article 24</i>). Criminal conviction is addressed by other legislation (such as Act on Personal Data Protection, etc.)</p> <ul style="list-style-type: none"> • Legal protection: The legal protection of the Board members and AFSA staff remains insufficient. The AFSA personnel can be held individually responsible for actions related to their insurance supervisory functions. Based on the AFSA Act (<i>article 18</i>), the Board members and other staff shall not be held financially liable for damages caused due to their supervisory duties, except for criminal convictions or intentional wrong acts. However, the legislation does not protect the Board and staff from being charged in case of <i>bona fide</i> discharge of their duties. <p>To conclude with, the AFSA mandate, responsibilities and objectives are not completely backed by the legislation and institutional setup of insurance supervision, which has proven to be largely ineffective, due to the lack of real independence, severely constrained financial resources, absent representation in the law-making process and the acute shortage of qualified personnel.</p> <ul style="list-style-type: none"> • The AFSA can initiate proposals for changes in insurance legislation by preparing draft laws or amendments to current laws. However, all its legislative proposals should be endorsed and submitted to the Parliament by the Ministry of Finance. There is no mechanism in place to ensure AFSA's involvement throughout the entire cycle of legal changes. Therefore the approved legislation can be substantially different from the AFSA's initial proposal. • The AFSA has no powers to establish its (i) own organizational structure and (ii) satisfactory remuneration required to retain qualified staff. • Although the AFSA is fully financed by the supervised markets, there are limitations in using the funds effectively. • The execution of the AFSA's decisions can be easily suspended by courts.
SCORE	PO
Comments	<p>Out of five main criteria listed in this ICP, only the protection of information can be considered as largely met. Due to the restrictions mentioned in ICP1, the regulator will have to wait for years until a law is amended, while it cannot guarantee the stability of the institution and retain qualified technical experts due to the organizational and financial limitations imposed by the current legal framework.</p> <p>The AFSA's independence, accountability and professionalism are hindered by the lack of (i) flexibility to amend the legislation, (ii) authority to take timely action, and (iii) adequate institutional capacity to oversee the market. Due to the restrictions mentioned in ICP1, the</p>

	<p>regulator has to wait for years until the legislation is amended to its satisfaction. But even then, the ultimate outcome is not guaranteed due to AFSA's inability to influence the legislative process.</p> <p>Although the AFSA is fully financed by the market, its organizational structure (staff count and positions) and the remuneration are decided by the Parliament. Due to the limitations on remuneration of its technical staff, the AFSA is unable to retain quality personnel. As a result, its technical ability to analyze and supervise the market remains inadequate. The AFSA's supervisory decisions can be suspended by courts before a decision on their legality has been taken.</p> <p>The AFSA's officials are not immune from legal action that might be brought in by disgruntled insurers.</p> <p><i>To address the issue of its independence and professionalism, the AFSA has proposed amendments to the Law on the AFSA and other relevant pieces of legislation.</i></p>
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ICP 3	Information Exchange and Confidentiality Requirements
	The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.
Description	<p>The current legal and regulatory framework allows AFSA to obtain and share information with other financial supervisors and authorities, based on mutual agreements and subject to confidentiality, purpose and use requirements.</p> <p>AFSA has legal authority and power to obtain and exchange information (<i>article 120, item 4 of the Act on Insurance</i>). The Act on the AFSA further describes the AFSA's mandate to exchange information with the BoA, other governmental institutions and agencies, local authorities and administration.</p> <p>The AFSA shall, at any time and in compliance with legal requirements, provide the information requested by (i) the court authorities; (ii) the BoA, (iii) the national intelligence services, or (iv) other supervisors and or authorities according to the criteria and conditions spelled out in joint agreements which define the scope of cooperation.</p> <p>According to the AFSA Act (<i>article 14</i>), the Board has the right to take decisions for signing memorandums of understanding and exchange of information with authorities within and outside the country. The MoUs with other insurance supervisors are in compliance with legal provisions and IAIS requirements. The exchange of information covers the following areas (<i>article 15, item 9 of the Act on AFSA, articles 18, paragraph 1, items 1, 2 & 5</i>):</p> <ul style="list-style-type: none"> • Compliance with requirements related to licensing, establishment, acquisition and take-over of insurance companies; • Verification of compliance with financial soundness and fit-and-proper criteria for key positions or owners of insurance companies; • Monitoring, inspection and examination of insurance companies in line with financial reporting and other supervisory requirements; • Specific inquiries into activities of individual insurance companies; • Disclosure of information for consumer protection purposes; • Identifying fraudulent practices in insurance markets;

	<ul style="list-style-type: none"> • Technical co-operation and assistance. <p>Based on the AFSA Regulation no. 114 (<i>article 8, item 8.4</i>), the request for information should be in writing and addressed to the contact persons. The procedures of exchanging and treatment of information with foreign authorities may also be regulated based on specific bilateral or multilateral agreements signed for this purpose.</p> <p>The AFSA is required to ascertain that the information released to another supervisory authority is handled confidentially by the requesting party at the same level of confidentiality as required in Albania. According to the terms of MoUs signed between AFSA and other supervisors, prior to disclosing information received pursuant to this MoU to third parties, the requesting Authority shall obtain a written assurance from such third parties that the information shall be kept confidential. However, the current primary legislation does not deal with the group-wide supervision, due to the lack of the relevant provisions (<i>see ICP 23 & 26 for further details</i>).</p>
SCORE	LO
Comments	<p>Law and regulations enable cross sharing of information with other regulators. However the requirements of ICP3 are not specifically addressed by the law. MoU's with other supervisors comply with the IAIS terms which take into account the ICP requirements.</p> <p><i>New legislation has been drafted to address in details issues related to the exchange of information. The bill on insurance envisages that AFSA cooperates, shares information, or enters into agreements with other domestic or foreign supervisory authorities, financial sector supervisory authorities, anti money laundering and counter terrorist financing agencies recognized by law.</i></p>

ICP 4	Licensing
	A legal entity which intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective and public, and be consistently applied.

<p>Description</p>	<p>Legal entities which intend to engage in insurance activities in Albania, must be licensed by the insurance regulator (AFSA) before they can start their insurance operations (<i>article 20 of the Act on Insurance</i>).</p> <p>Non-admitted insurance is not permitted in Albania because the law provides that insurance must be purchased from locally authorised insurers, with some exceptions, principally in MAT⁵ classes. Article 5 of the Insurance Act states that "<i>direct insurance with a foreign company outside the territory of the Republic of Albania for a risk which pertains to a person, thing or liability which is in the territory of the Republic of Albania, shall not be allowed, unless it has been foreseen differently in the international agreements where Republic of Albania is a party.</i>"</p> <p>The legislation sets out clear and objective requirements and procedures with regards to licensing of insurance activity (<i>articles 23 & 24 of the Act on Insurance and the Regulation no. 13</i>). These requirements provide an equal footing for every applicant (i.e., there is no exception based on any criteria).</p> <p>To protect interests of policyholders, the Act on Insurance specifies the following:</p> <ul style="list-style-type: none"> ▪ defines regulated insurance activities which are subject to licensing (<i>article 3/14 insurance law</i>); ▪ prohibits unauthorised insurance activities (<i>article 8 of insurance law</i>); ▪ defines the permissible legal forms of domestic insurers (<i>article 3/11 of insurance law</i>); ▪ defines AFSA's responsibility for issuing licences (<i>articles 8 & 20 and article 14 of the Act on AFSA</i>); and ▪ sets out the procedure and form of establishment by which foreign insurers are allowed to conduct insurance activities within the jurisdiction (<i>8 & 20 of Insurance Law - branch or subsidiary of insurance company</i>). <p>The Act on Insurance and regulation no. 13, dated 08.02.2007 "<i>On the procedures for accepting and reviewing of applications for licenses to conduct insurance or reinsurance business in the Republic of Albania</i>" define the scope of insurance license based on the breakdown in insurance classes as per a relevant EU directive.</p> <ul style="list-style-type: none"> • According to article 20, the insurance company carries out insurance activity only for the classes for which the license has been provided by the AFSA. The license of the insurance company shall be unlimited in time, not transferable and not purchasable. If an insurance company wants to extend the scope of its licence, it should get approval from the AFSA for "extended activity" upon AFSA's review of application (<i>see article 35</i>). • Licensing requirements and procedures are clear, objective and public, and are consistently applied. Minimum fit-and-proper criteria apply for the proposed Board Members, senior management, both individually and collectively, significant owners and key persons in control functions. The law requires the establishment of a sound corporation, group structure and governance framework and grounded mid-term business and financial projections. • The law clearly defines capital and solvency criteria based on the Solvency I regime. The minimum capital requirements depend on the scope of the license: (i.e., if a company is engaged in MTPL insurance, its minimum capital cannot be less than ALL370 mm (equivalent of EUR 3mm). An additional organizational fund (not less than 5% of initial
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⁵ Marine, Aviation, Transport.

	<p>capital) is required to cover the start up costs (<i>see article 17</i>).</p> <ul style="list-style-type: none"> • Shareholders must provide information with regard to the source of the establishment capital, in accordance with the criteria set out by the AFSA Law (<i>see article 18</i>). • Articles 23 & 24 of the Insurance Law specify requirements for: (i) articles of association, and company charter; (ii) proposed name and location of the headquarters, (iii) list of shareholders and details for the shares; (iv) source of capital; (v) list and relevant information for key persons; (vi) organizational structure; (vii) court decision proving that 50% of the initial capital has been deposited, (viii) list of correspondent banks, and (ix) the program of activities. <p>The same technical and financial criteria apply in case of licensing of subsidiaries or branches of foreign insurance companies. According to the Act on Insurance (<i>article 39</i>), a foreign insurance company should submit a written application in Albanian language along with:</p> <ul style="list-style-type: none"> ▪ evidence of license granted by the supervisor of the home country; ▪ approval from the home supervisor for the expansion of insurance operations in Albania. <p>According to article 27, AFSA's decision concerning the refusal of licence application should be grounded, reasonable and should be provided to the company in writing within 10 working days from the date when such a decision was made. The law clearly defines the deadlines within which the AFSA should review the documentation and respond to the applicant.</p>
SCORE	LO
Comments	<p>The law and regulations set out detailed licensing criteria in line with the requirements for this ICP. AFSA is the responsible body for licensing of insurance operators in Albania.</p> <ul style="list-style-type: none"> ▪ The legislation clearly defines requirements and procedures with regards to licensing of insurance activity and provides a level playing field for every applicant. ▪ Licensing requirements and procedures are clear, objective and public, and are consistently applied. ▪ The law clearly defines capital and solvency criteria based on the Solvency I regime. ▪ Minimum fit-and-proper criteria apply to the proposed Board Members and senior management; ▪ Shareholders must provide information with regard to the source of the establishment capital; ▪ Approval from home supervisor is required in case of subsidiaries of foreign companies. <p>However, the technical capacity of the regulator to establish full compliance of documentation submitted by license applicants is limited.</p>

ICP 5	Suitability of Persons
	The supervisor requires Board Members, Senior Management, Key Persons in Control Functions and Significant Owners of an insurer to be and remain suitable to fulfil their respective roles.
Description	<p>The Act on Insurance and respective by-laws define fit-and-proper requirements for Board Members, Senior Management, Key Persons in Control Functions and Significant Owners:</p> <ul style="list-style-type: none"> • Senior Management and Board members (<i>see articles 62, 63 & 64 and the Regulation no. 14,</i>); • Actuaries: (<i>see articles 66 & 67 and the Regulation no. 67, dated 27.07.2009 "On licensing the authorized actuaries of insurance companies"</i>);

	<ul style="list-style-type: none"> • Internal auditors and independent auditors (<i>see articles 68 & 71</i>); • Loss adjusters: (<i>see article 89 and DCM no. 164, dated 28.01.2008 "On licensing criteria and procedures for insurance loss adjusters"</i>); • Significant Owners: (<i>see Articles 15, 16 & 56</i>). <p>The Board members, senior management and key persons have to fulfil the requirements defined in <i>articles 62 & 64</i> related to professional capacity, experience and integrity. The Act on Insurance (<i>article 15 and 18</i>) and the AFSA regulation no.13 define the integrity and financial requirements for shareholders which include criminal records, financial information and source of capital. However, criminal records are required only for the last three years, which may be insufficient for owners of a company operating in financial markets.</p> <p>According to the article 122 of the Act on Insurance, the insurance company should inform the AFSA on changes in:</p> <ul style="list-style-type: none"> • commercial registry; • board members, accounting expert and members of internal control committee (the letter of notification submitted to the AFSA should provide reasoning for appointment or dismissal - changes can be made upon AFSA's approval), • list of the shareholders and their holdings (AFSA approval must be sought for significant changes in ownership of insurance undertakings). <p>The fit-and-proper criteria have to be met permanently. In the case of failure to meet the fit-and-proper criteria by board members, senior management and key persons, the AFSA is entitled to suspend them for a one year period (<i>article 165 of the Insurance law</i>) and, further dismiss them from their functions if the instances of non-compliance have not been properly addressed (<i>article 170</i>).</p> <p>The AFSA can exchange information with home supervisors of foreign insurers operating in Albania (through local subsidiaries) to confirm the suitability of Board members, senior management, key persons in control functions and significant owners of an insurer (<i>articles 18 & 25 of Insurance Law</i>).</p>
Score	LO
Comments	<p>The legislation sets general suitability criteria for insurance companies' shareholders, supervisory board and senior management. Changes in shareholders and managing bodies of an insurance company should be approved by the AFSA. Yet, the legislation has to be further detailed in respect to requirements related to criminal records of shareholders. The AFSA can exchange information with the home supervisors of foreign insurers operating in Albania (through local subsidiaries) to confirm the suitability of Board members, senior management, key persons in control functions and significant owners of an insurer.</p>

ICP 6	<p>Changes in Control and Portfolio Transfers</p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural), directly or indirectly, alone or with an associate, exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>
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Description	<p>Supervisory approval is required for significant ownership in an insurance company (<i>10 percent or more</i>), or (ii) an interest that results directly or indirectly in controlling powers over the insurer. The same applies to portfolio transfers or mergers of insurers.</p> <p>The Act on Insurance requires insurer to inform the AFSA on any proposed acquisitions or changes in control of the insurer. The supervisor grants or denies approval to person(s) (legal or natural) that want(s) to acquire significant ownership (<i>above 10%</i>) or a gain a controlling interest in an insurer, whether directly or indirectly, alone or with an associate (<i>articles 122 and 56</i>). The AFSA should also be notified about any changes in insurer's capital that may trigger changes in voting rights - respectively 20%, 33% or 50%, (<i>see article 56 of the Act on Insurance</i>) for which AFSA's approval must be sought.</p> <p>In the case when the intermediate or ultimate beneficial owner(s) of an insurer resides outside Albania, the AFSA can exchange information with corresponding supervisors, based on the respective MoUs (<i>see ICP 3</i>).</p> <p>Every natural or legal person that aims to purchase shares in an insurance company, directly or indirectly, shall be required to provide information on the source of funds (<i>see article 56 of the Act on Insurance</i>). Shareholders must provide information with regard to the source of capital, in accordance with the criteria set out by the AFSA (<i>see articles 15, 18 & 56 of the Act on Insurance</i>). The Act on Insurance (<i>article 18</i>) and Regulation no.13 specify requirements for financial and non-financial resources, comprising evidence for the source of capital.</p> <p>The transfer of all or a part of insurer's business is subject to approval by the AFSA (<i>article 45 of Act on Insurance</i>), which should assess the financial position of the transferee and the transferor. The supervisor should satisfy itself that the interests of the policyholders, and of both the transferee and transferor will be protected. The insurance company concludes agreements with another insurance company (accepting company) for the transfer of insurance contracts or insurance portfolio together with assets covering technical and (or) mathematical provisions. The law defines the AFSA's responsibility to approve the transfer in line with the interest of insured persons and creditors. However there is not enough capacity at the AFSA to assess in practice the adequacy of reserves and assets that accompany the transferred portfolio. The legislation does not specifically require a favourable opinion on the transaction from a qualified actuary</p>
Score	LO
Comments	<p>Supervisory approval is required to acquire significant ownership (10% or more) or an interest in an insurer. All changes in ownership require the AFSA's consent through the submission and acceptance of the new Charter. When foreign investors are involved, supervisors from country of origin must provide their consent. Portfolio transfer requires AFSA's approval. However, the legislation does not specifically require a favourable opinion on the transaction from a qualified actuary and there is not enough capacity at the AFSA to assess the adequacy of reserves and assets that accompany the transferred portfolio.</p>

ICP 7	<p>Corporate Governance</p> <p>The supervisor requires insurers to establish and implement a corporate governance framework which provides for sound and prudent management and oversight of the insurer's business and adequately recognises and protects the interests of policyholders.</p>
Description	<p>The current Act on Insurance (<i>article 61</i>) has introduced the following governance structure:</p>

- a. Shareholders Assembly,
- b. Supervisory Council,
- c. Management or executive Board.

The Act on Companies defines the responsibilities of shareholder assembly, management and supervisory board. The Act on Insurance defines the responsibilities of the executive Board and the audit committee. The roles are defined as follows:

Executive Board (or management), article 65:

- abides by the effective legislation,
- implements decisions of the Shareholders Assembly and Board,
- exercises daily activity,
- drafts and implements manuals and guidelines;
- reports instantly to the Supervisory Board and the AFSA on technical activity, financial situation and solvency margin.

Supervisory Board (defined in the charter of the company).

- approves internal rules and procedures
- approves and supervise the strategy and politics of the company
- approves employment requirements and procedures
- presents financial statements to the shareholder assembly.

The Act on Insurance stipulates the creation of committees (*article 161/4*) within the supervisory board to support a sound decision-making process in various areas such as: hiring and nomination of managing directors, remuneration policy, appointment of auditors. However, such a requirement is worded as a recommendation rather than a regulatory requirement and hence not applied in practice by most insurers. There are no legal requirements with regards to the adequate level of knowledge, skills and expertise at the Board level commensurate with the governance structure and the nature, scale and complexity of the insurer's business;

Internal Control Committee:

- carries out functions in compliance with legislation and internal rules,
- keeps the registers of economic activity appropriately,
- registers precisely the accounting data,
- prepares the annual financial and statistical reports.

According to the current Insurance Law the Supervisory Board determines the scope for the internal audit by also approving its annual audit program of control (*see article 68*). There is no specific requirement to incorporate risk management issues in the scope of internal audit.

As part of their annual report and accounts, insurers are required (*article 134/2*) to provide a statement describing the key elements of corporate governance, including internal guidelines and practices, profile of board members, managing directors by providing details of their qualifications and professionalism. Such a statement should be made available to the public.

The Act on Insurance requires the insurer's Board to set and oversee the implementation of the insurer's business objectives and strategies. Such responsibilities must be defined in the insurer's charter which should be approved by the AFSA (*article 14, 55*). However, there are no legal requirements with regards to Board's responsibilities related to defining the company risk management strategy and risk appetite, in line with the insurer's long term interests and viability as specified by the ICP.

	<p>The Act on Insurance (<i>article 71</i>) gives the AFSA the right to determine criteria for the selection of external auditors of insurance companies and approve them on a case by case basis. Regulation no. 7, dated 08.02.2007, “On the licensed auditing firms of the insurance companies” requires auditing of insurance companies to be in compliance with the IAS guidelines. The regulation requires insurers to make their audited financial accounts available to the public.</p> <p>There are no requirements to adopt appropriate policies and procedures to ensure (i) compliance of insurer’s operations with its strategy and guidelines, (ii) sound risk management practices and fair treatment of consumers, (iii) adequate management information systems that enable timely monitoring of insurer’s performance and its risk exposures as well as the performance of its Senior Management. There are no regulatory requirements in place with regards to the remuneration policy of insurers.</p> <p>The AFSA does not possess either the legal mandate or sufficient technical capacity to control the adequacy and effectiveness of insurers' corporate governance.</p>
Score	PO
Comments	<p>There is no requirement that the Board must be composed of people with adequate level of knowledge, skills and expertise commensurate with the governance structure and the nature, scale and complexity of the insurer’s business.</p> <p>There are no clear requirements on a) the risk management function and b) specific procedures that have to be set by insurers for their day-to-day operations with regards to monitoring and performance of risk exposures, treatment of consumers, performance of senior management, proper communication with stakeholders, and the regulator.</p> <p>There are no requirements to insurers to adopted appropriate policies and procedures with regards to (i) maintaining effective operations in compliance with their strategy and guidelines, (ii) introducing sound risk management practices and fair treatment of consumers, (iii) introducing adequate management information systems to ensure timely monitoring of risk exposures and the performance of Senior Management.</p> <p>The AFSA does not either the legal mandate nor the sufficient technical capacity to control the adequacy and effectiveness of insurers' corporate governance.</p>

ICP 8	Risk Management and Internal Controls
	The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.
Description	<p>Sections I, II, III, IV of Chapter VI of the Act on Insurance, describe the risk management requirements as follows:</p> <ul style="list-style-type: none"> • Section I - Insurance Company Capital (<i>Article 91-subscribed capital, Article 92 - additional capital, Article 93-security reserve, Article 94-calculation of the capital, Article 95- capital investment, Article 96-solvency margin, Article 97- required level of solvency margin, Article 98-guarantee fund, Article 99-insurance or reinsurance premiums</i>); • Section II-Provisions (<i>Article 101-technical and mathematical provisions</i>); • Section III-assets covering technical and mathematical provisions (<i>Article 102- assets covering</i>

	<p><i>the technical and mathematical provisions, Article 103-investments of assets covering technical and mathematical provisions, Article 104-separation of assets, Article 105-categories of permitted investments, Article 106-prohibition of free use of assets);</i></p> <ul style="list-style-type: none"> • Section IV-other measures of risk management (<i>Article 107-reinsurance requirements, Article 108-reinsurance program, Article 109-coinsurance, Article 110-liquidity management, Article 111-limitation of profit distribution, Article 112-accounting and control</i>). <p>1. A non-life insurance company is required on a quarterly basis to calculate and control its: a) capital, b) solvency margin, c) required level of the solvency margin, d) technical provisions, e) assets covering technical provisions, f) investments on assets covering the technical provisions, g) liquidity norm, h) reinsurance, i) other as may be requested by the Authority.</p> <p>2. -A life insurance company should, on an annual basis (at the end of financial year), submit a report signed by its authorized actuary with statements on mathematical provisions, solvency, adequacy of assets covering the provisions, premiums sufficiency and profit analysis.</p> <p>The Act on Insurance (i) requires implementation of a two-tier governance structure and (ii) defines main responsibilities of the managing bodies. According to Chapter IV on Management and Functioning of the Insurance Company and Internal Control, the insurer is required to have an Authorized Actuary and an Internal Control Committee, besides the managing bodies (Shareholders Assembly, Supervisory Council and the Board). The regulation defines the independence and responsibilities of internal audit and actuarial functions. However, their role in practice remains weak due to the lack of clear regulatory guidance on risk management and corporate governance.</p> <ul style="list-style-type: none"> • The Act on Insurance (<i>article 68</i>) requires the insurer to establish the function of internal audit as a separate unit that should report to the Supervisory Board. • Actuarial function is regulated through Regulation no. 67, dated 27.07.2009 “Regulation On Licensing The Authorized Actuaries Of Insurance Companies.” <p>The regulation on corporate governance is deemed to be insufficient as insurers are not required by law or insurance regulations to establish effective risk management functions necessary to identify, assess, monitor, manage and report on their key risks in a timely fashion.</p>
Score	PO
Comments	<p>The law and regulations specify criteria on capital/solvency, technical reserves, investments, reinsurance, etc. Companies report them on a quarterly basis (annually for life). The current law specifically requires internal audit and actuarial functions (although independence is an issue).</p> <p>The current criteria are not risk based and do not support the effective risk management function necessary to identify, assess, monitor, manage and report on key risks in a timely fashion. The current law does not address the issue of risk accumulation due to catastrophe risk insurance.</p>
ICP 9	Supervisory Review and Reporting

	<p>The supervisor has an integrated, risk-based system of supervision that uses both off-site monitoring and on-site inspections to examine the business of each insurer, evaluate its condition, the quality and effectiveness of its Board and Senior Management and compliance with legislation and requirements. The supervisor obtains the necessary supervisory information to conduct effective supervision of insurers and evaluate the insurance market.</p>
<p>Description</p>	<p>The primary legislation empowers the AFSA to conduct supervision of insurance activities carried out by legal entities or individuals. Specifically, Article 2, item b of the AFSA Act and article 120 of the Act on Insurance define the AFSA as the sole authority responsible for conducting insurance supervision in Albania.</p> <p>The legislation clearly determines the main objectives of insurance supervision (<i>see article 12 of the act on AFSA and article 120, item 1, of the Act on Insurance</i>): (a) promoting the stability, transparency and credibility of the non-bank financial sector, (b) safeguarding consumers and investors' protection through (c) proper enforcement of laws and regulations.</p> <p>The legislation defines the AFSA's mandate, tasks and activities which comprise conducting off-site and on-site supervision and enforcement of regulation through corrective or punitive measures (<i>see articles 12, 13, 14, 31 and 32 of the Act on the AFSA and chapters III, VI and VIII of the Act on Insurance</i>).</p> <p>The current insurance supervision is rule based. Article 121 of the Act on Insurance defines that the insurance supervision is conducted through:</p> <ul style="list-style-type: none"> • control of documents, • off-site analysis and on-site inspection, • enforcement of measures and sanctions as per legal requirements; <p>The off-site monitoring and on-site inspection functions are defined in the Regulation no. 7, 30.08.2007 “On rules of procedure of AFSA”, further amended through regulations no. 18, dated 25.02.2010, and no. 123, dated 18.11.2010.</p> <p>Article 112 of the Act on Insurance requires insurers to submit quarterly detailed financial reports on their technical accounts and balance sheets. The frequency, content and scope of financial, statistical and actuarial reports are clearly defined in the AFSA Guideline (no. 140, dated 26.09.2012 “For the compulsory reporting of insurance and reinsurance companies periodical and annual”). The financial reports must be prepared in accordance with the IFRS and the annual financial statements must be certified by an approved external auditor (<i>see articles 71, 72, 73 and 114 of the Act on Insurance</i>).</p> <p><i>The AFSA has set comprehensive requirements for the submission of regular, systematic and comprehensive financial and statistical information, actuarial reports, solvency position reports and other information from all insurers through the EBRD financed electronic reporting platform.</i></p> <p>The AFSA may require additional information and paperwork which should be timely submitted by the insurer to ensure proper supervisory review and analysis (<i>see article 121, paragraphs 2 & 3</i>). However, such additional requirements are not risk-driven and not based on the nature, scale and complexity of issues and identified gaps which need to be filled in. The additional information may therefore prove to be redundant and have no material impact to the company's financial position and its overall performance.</p> <p>Each insurer operating in the market, despite its financial or underwriting performance, is subject</p>

	<p>to the same on-site supervision regime (usually one to two inspections per year). Annual on-site inspections cover all aspects of their operations and performance, including: solvency, assets, technical provisions, underwriting, claims, etc. This approach is far from a risk-based model of supervision which would require allocation of most supervisory resources to problematic companies rather than regular annual visits to all market players. The on-site inspections are not properly guided by prior off-site risk examinations, which ideally should define the scope and areas for field inspections in problematic areas and companies. Given the AFSA's limited capacity (only two qualified insurance inspectors and limited actuarial capacity), the current approach severely impacts the quality of on-site insurance supervision.</p> <p>There is not sufficient capacity within the AFSA to perform adequate and timely assessment of (i) insurers' liabilities (especially technical provisions) and (ii) perform ongoing checks of their assets, based the comprehensive information reported through the electronic platform and on-going communication with insurers.</p> <p>The AFSA's supervisory findings are discussed with respective insurers before preventive or corrective actions are taken by the AFSA Board (see articles 123, 124 & 125 of the Act on Insurance). The AFSA's supervision powers extend to outsourced activities (article 53 of insurance act).</p>
Score	PO
Comments	<p>The ability of AFSA to supervise the market is severely constrained by the lack of qualified personnel. Despite the scarcity of technical resources, their allocation is not determined by the nature, scale and specific risks of each insurer.</p> <ul style="list-style-type: none"> ▪ The on-site inspections are not properly guided by prior off-site risk examinations, which ideally should define the scope and areas for field inspections in problematic areas and companies. ▪ Given the AFSA's limited capacity (only two qualified insurance inspectors and limited actuarial capacity), the current approach severely impacts the quality of on-site insurance supervision. ▪ There is not sufficient capacity within the AFSA to perform adequate and timely assessment of (i) insurers' liabilities (especially technical provisions) and (ii) ongoing checks of their assets, based the comprehensive information reported through the electronic platform and on-going communication with insurers. <p>There is a high quality reporting and data collection system, which is in line with the international standards.</p>

ICP 10	<p>Preventive and Corrective Measures</p> <p>The supervisor takes preventive and corrective measures that are timely, suitable and necessary to achieve the objectives of insurance supervision.</p>
Description	<p>The primary legislation provides details of preventive and corrective supervisory measures if the insurer fails to comply with specific regulatory requirements.</p> <p>Conduct of insurance activities without the necessary license constitutes a criminal offense and the AFSA has the obligation to inform the prosecution about unlicensed activities and any related facts as soon as it becomes aware of such violations.</p> <p>The Law on Insurance defines supervisory measures which are determined based on the type and severity of the violation. Preventive and corrective measures correspond to the following types of</p>

	<p>violations (<i>see articles 124-126 of the Act on Insurance and article 32 of the Act on AFSA</i>):</p> <ul style="list-style-type: none"> • board member is not approved by the AFSA in advance; • company does not meet criteria for carrying out the activity; • company performs activities without the AFSA's approval (unlicensed or non-approved); • solvency / capital adequacy / risk management issues; • issues with the internal audit and authorized accounting expert; • financial reporting issues <p>The AFSA supervisory measures comprise: plans to eliminate violations, decisions of shareholders' general assembly, prohibition to sign new business, freeze of assets, etc. Each supervisory order issued by the AFSA Board has to clearly specify (i) the supervisory measure based on legal requirements and (ii) deadlines for compliance with the measure as per regulations.</p> <p>There is a progressive escalation in actions or remedial measures that can be taken, if (i) there is evidence that the situation has worsened during the time when the first regulatory action has been taken or (ii) the insurer ignores requests from the supervisor to timely take preventive and corrective action (<i>Act on Insurance , article 124-128</i>).</p> <p>When necessary, the AFSA requires the insurer to develop an acceptable plan for correction of problems. Corrective plans should include clear steps to and deadlines for addressing the issue and normalizing the situation. Act on Insurance provides the rules for financial recovery of insurance companies (article 127) based on which a plan should be submitted by the insurer on how to stabilize the financial position of the company after the solvency margin has fallen below the required level. Short term plans should be submitted if the insurer has fallen below the minimum guarantee fund in order to address the issue immediately.</p> <p>However, the current rule-based regulation is designed to address and fix problems only when there is clear evidence of the breach of legislation by insurers. This approach does not allow early supervisory interventions and preventive action which can be triggered by early warnings and worsening tendencies in insurers' performance indicators.</p> <p>Due to its limited resources and expertise in specific insurance areas (e.g. actuarial, claims), the AFSA cannot take timely and effective regulatory measures against insurance companies. The AFSA needs more than 6 months to analyze annual financial performance of companies. During this review period the situation may deteriorate even further.</p>
Score	PO
Comments	<p>Although the law describes preventive and corrective measures commensurate with the severity of the insurer's problems, it does not provide the AFSA with ability for timely interventions, particularly in cases dealing with insolvency.</p> <p>The AFSA can take administrative measures to prevent the violations of the law. However the rule-based supervisory regime makes it difficult to timely trigger the corrective regulatory action when the evidence of violation is not entirely clear. In addition, there is limited capacity to understand the extent of problem when it comes to capital adequacy related matters.</p>
ICP 11	Enforcement

	<p>The supervisor enforces corrective action and, where needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>
<p>Description</p>	<p>The act on the AFSA gives the AFSA the authority to enforce corrective actions. It can issue formal directions to insurers to take or desist from taking particular actions.</p> <ul style="list-style-type: none"> • The article 165 of Act on Insurance details measures and sanctions related to infringement of specific legal provisions. • Article 32 of the act on AFSA details preventive measures and steps to improve the situation or prevent the damage as well as timelines to implement the measures. • Article 125 of the Act on Insurance defines the obligation of the insurance companies to present to AFSA a plan with detailed actions that they will take to eliminate the violations. The AFSA is responsible to monitor the compliance with the plan and monitor the elimination of violations. <p>The AFSA has authority to address specific problems corporate governance problems, including the power to require the insurer to replace or restrict the power of Board Members, Senior Management, Key Persons in Control Functions, significant owners and external auditors.</p> <ul style="list-style-type: none"> • According to the Act on Insurance, the AFSA is entitled to order the Supervisory Council to dismiss one or several Board members and ensure their replacement in a short period of time (<i>see article 126 item 2</i>). • Based on <i>article 165</i> of the Act on Insurance, the AFSA may suspend the responsible person, and change administrators or directors when violations of the law are identified. • In case of repetition of the violations (<i>article 170</i>), the AFSA may decide to dismiss the responsible person from his functions in insurance company. <p>The AFSA has a range of actions available for enforcement where problems are encountered. AFSA's enforcement powers are set out in legislation and comprise restrictions on business activities and measures to reinforce the financial position of an insurer (article 126, 128, 132).</p> <ul style="list-style-type: none"> ▪ Article 126: allows prohibiting new business, blocking payments to certain entities, and freezing assets. ▪ Article 128: provides for license withdrawal. ▪ Article 132: provides for provisional administration. The AFSA can impose provisional administration on an insurer if it (i) has not implemented the corrective measures within deadlines; (ii) has not reached the required level of solvency. <p>The Act on Insurance defines sanctions against insurers and individuals, who fail to provide timely information, withhold information from the supervisor, provide information that is intended to mislead the supervisor or deliberately misreport to the supervisor.</p> <ul style="list-style-type: none"> • AFSA, can impose sanctions against insurers and individuals who fail to provide information to the supervisor. (Article 165, paragraph 1/i). • AFSA can impose sanctions against any individual who prevents its authorized staff to comply with supervisory requirements (Article 31, Act on AFSA). <p>The AFSA's supervisory decisions can be suspended by courts, although the AFSA law requires their immediate execution. The Code of Civil Procedure states that an administrative decision can be suspended when there is a risk for serious and irrevocable impairment of the defendant due to such an administrative act, and the court must provide reasons for such a decision. However, in practice the courts can suspend any kind of decision.</p>

Score	PO
Comments	<p>The enforcement of AFSA decisions is undermined by the ability of insurers to challenge AFSA's rulings in court, which can suspend such decisions for an indefinite period of time, even prior to hearing the case.</p> <p>On average, it takes 3-6 months to address severe cases of insolvency and even then, it is not guaranteed that the solvency will be fully restored.</p> <p>The courts may suspend AFSA's decisions for an indefinite time (sometimes for years) which can result in insolvency situations causing a major adverse impact on consumers and insurance companies.</p>

ICP 12	Winding-up and Exit from the Market
	<p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimising disruption to provision of benefits to policyholders.</p>
Description	<p>The procedures for the winding-up and exit of an insurer from the market are set out in legislation (Articles 149, 150 & 151, Act on Insurance). A high legal priority is given to the protection of the rights and entitlements of policyholders. The procedures aim at minimising the disruption to the timely provision of benefits to policyholders. The Act on Insurance (<i>article 123</i>) specifies cases when insurance entities can exit the market. These are as follows:</p> <ul style="list-style-type: none"> ▪ license withdrawal ▪ provisional administration, ▪ compulsory liquidation, ▪ bankruptcy proceedings. <p>The Act on Insurance (<i>articles 149, 150 & 151</i>) sets out priorities in distributing the assets in case of the winding-up and exit of an insurer from the market.</p> <p>Based on article 144 of the Act on Insurance, an insurance company should stop writing new business or renew existing contracts immediately after the liquidation proceedings have been announced. However, the immediate enforcement with regards to writing new business or asset infringement may be potentially obstructed by the suspension of AFSA decision by the court. The Code of Civil Procedure makes clearly specify cases when decisions can be suspended (only if the decision is deemed to have irrecoverable damage to the defendant) and provide the rationale for doing so. However, the courts can abuse such a provision and suspend any decisions.</p>
Score	LO
Comments	<p>Procedures for winding up and exit from the market are clearly defined in the law and provide for a proper protection of policyholders in case of forced liquidations. The legislation provides for the determination of the point at which it is no longer permissible for an insurer to continue its business. However, the immediate enforcement with regards to writing new business or asset infringement may be obstructed by the suspension of AFSA decision by the courts, if the later misinterpret the provisions of the Civil Procedure Code. Nevertheless, in the absence of insolvencies in the history of the Albanian market, the possibility of such a suspension of an AFSA decision to infringe assets of an insolvent insurer</p>

	remains theoretical, as the courts will find it very difficult to misinterpret the provisions of the Civil Procedure Code for insolvencies related to the financial sector due to their major adverse impact on society at large.
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ICP 13	Reinsurance and Other Forms of Risk Transfer
	The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programmes. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.
Description	<p>The following legislation regulates reinsurance practices of insurers in Albania:</p> <ul style="list-style-type: none"> • Article 107 “Obligation to reinsure” and article 108 “Program of reinsurance” of the Act on Insurance, • Regulation no.2, dated 08.02.2007 “On Reinsurance Criteria”, • Regulation no.5, dated 08.02.2007 “On the content of Reinsurance Program for Insurers.” <p>The Act on Insurance and reinsurance regulation define minimum requirements on (i) the amount of reinsurance required based on a maximum 'per risk' net retention (10% of capital) and (ii) quality of reinsurers (and admittance of reinsurance assets) based on their credit ratings.</p> <p>Foreign reinsurers and reinsurance brokers are admitted in Albania without the need for a local license. Clear regulatory requirements apply with regards to (i) reinsurance of unlimited layers with highly rated reinsurers and (ii) recognition of reinsurance assets relative to the credit ratings of respective reinsurers. Most reinsurance treaties are arranged through international reinsurance brokers with highly rated European reinsurers including Swiss Re, Hannover Re, Scor, etc.</p> <p>Details of reinsurance arrangements (and copies of the contracts) are reported to the AFSA within 10 days of their inception date and are reviewed further to ensure compliance with regulatory requirements.</p> <p>Based on article 108 of Act on Insurance, insurers should submit to the AFSA their annual reinsurance programs with:</p> <ol style="list-style-type: none"> a) table of 'per risk' maximum coverage relative to company's surplus capital; b) procedures, basis and criteria to determine the PML and level of reinsurance coverage. <p>However, there are no detailed procedures or criteria in place to assess the compliance with the point b) above in case of risk accumulation from multiple insurance contracts covering catastrophe risks (risk of earthquake) and PML⁶-based assessment in general.</p> <p>The AFSA requires cedants to be transparent in their reinsurance arrangements and management of the associated risks. However AFSA's capacity to assess the adequacy of reinsurance arrangements is limited.</p> <p><i>Other forms of risk transfer are not applicable in Albania.</i></p>
Score	PO
Comments	The current regulation determines a set of rules on a 'per risk net retention' basis and

⁶ PML: Probable maximum loss (PML) is an estimate of the largest loss that a risk is likely to suffer from a single insured event after the available risk mitigation measures have been put in place.

	<p>prescribes the minimum credit quality of participating reinsurers. However, it does not address the issue of risk accumulation from multiple insurance contracts covering catastrophe risks (risk of earthquake) and PML-based assessment in general. The AFSA does not have sufficient reinsurance expertise to assess the insurers' compliance with the reinsurance regulation. One way to address the problem of inadequate catastrophe risk management is to institute a national catastrophe risk insurance program whereby catastrophe risk will be pooled at the market level and then transferred to the global reinsurance markets. See Annex I for more details.</p>
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ICP 14	<p>Valuation</p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>
Description	<p>According to article 114, paragraph 1 of the Act on Insurance, insurance companies must maintain accounting systems and compile accounting reports pursuant to the provisions of the Act on Accounting, except when it has been otherwise required by the AFSA.</p> <p>According to the Act on Accounting (<i>see article 4</i>), as of January 2008, the IFRS are mandatory for insurance companies. The AFSA has accepted the IFRS as the financial reporting standard for insurance companies and has further issued Guideline no. 140 with requirements on the valuation of assets and provisions.</p> <p><i>IFRS provides a detailed guide regarding the recognition, de-recognition and measurement of assets and liabilities (see IAS 39 Financial Instruments: Recognition and Measurement).</i></p> <ul style="list-style-type: none"> • According to the Act on Insurance (<i>see articles 114 "Accounting" & 115 "List of documents of detailed reports"</i>) and Guideline no. 140, the insurance company shall report on a regular basis (every quarter) to the AFSA. • AFSA has also defined specific requirements regarding the valuation of assets for covering technical provisions (see Act on Accounting and DCM no. 96, of 03.02.2008). <p>The AFSA carries out insurance supervision under a rule-based approach, therefore the calculation of the Solvency margin (EU S1) and valuation of assets and liabilities are not compliant with the risk-based approach.</p> <ul style="list-style-type: none"> • The existing supervisory regime does not support economic evaluation of assets and liabilities. • There are no requirements based on the MoCE concept for technical provisions. <p>The AFSA has issued a regulation on the calculation of technical and mathematical provisions. However, it has does not have sufficient capacity to assess the adequacy of insurers' technical provisions. Based on the current law, the technical provisions are certified by actuaries authorized by the AFSA, however, in practice the actuaries of some companies obey management decisions to determine the level of reserves mainly based on the company's annual profit considerations rather than proper risk management. As a result, the results of a standard IBNR assessment vary greatly from company to company even for the homogenous MTPL business. Better diversified insurers reserve substantially higher IBNR amounts relative to their MTPL volumes of premium</p>

	<p>compared to their competitors, which write mainly MTPL business (more than 65 percent). Due to the inadequate reserving, the industry is likely to suffer from the ongoing reputational risk of poor claims performance which may hamper its future growth .</p> <p>The regulation requires independent review of technical reserves by external auditors, however their job is not as easy under the lack necessary detailed data required for a proper assessment of reserves. The regulation itself does not provide specific reserving requirements for life insurance with regard to the time value of money to reflect the expected present value of all relevant future cash flows that may be used to fulfill insurance obligations.</p>
Score	PO
Comments	<p>AFSA carries out insurance supervision under a rule-based approach. Therefore the calculation of the Solvency margin (EU S1) and valuation of assets and liabilities are not compliant with the risk-based approach.</p> <p>Valuation of technical provisions (regulatory and practical) does not properly address the time value of money.</p> <p>There are no statutory prescribed discount rates for the calculation of mathematical life reserves.</p> <p>In addition, the valuation of claims provisions is not grounded in appropriate actuarial assessment of historic claims development patterns.</p> <ul style="list-style-type: none"> • Based on the current law, the technical provisions are certified by actuaries authorized by the AFSA, however, in practice the actuaries obey to management decisions with regards to the amounts of reserves. • Although the regulation requires independent review of technical reserves from external auditors, however their job is not as easy under the lack necessary detailed data required for a proper assessment of reserves. <p>Economic valuation is not observed in the absence of the RBS approach.</p>

ICP 15	Investment
	The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.
Description	<p>The Act on Insurance defines the types of capital investments. The minimum capital (Guarantee Fund) should be fully liquid and invested in government bonds or bank deposits with maturity not less than one year (<i>articles 102 & 105 of the Act on Insurance</i>). The Act also provides clear criteria and sets limitations on other types of assets which are further detailed in Regulation. No. 4, dated 08.02.2007 “On the Insurance Companies Capital Investment Limits.”</p> <p>The Act on Insurance defines the obligation to fully cover technical and mathematical provisions with allowed types of assets (<i>article 102, 103, 105</i>). According to the Act on Insurance (article 103), investment of assets covering technical provisions should preserve investment value, profitability and liquidity. The law requires insurers to ensure that assets covering technical provisions are invested adequately to (i) cover obligations arising from insurance contracts in full and on time and (ii) address eventual risks, such as fluctuation in exchange rates and other market risks.</p> <p>A specific by-law DCM (no. 96, dated 03.02.2008) defines (i) investment categories for assets covering technical and mathematical provisions and (ii) limitations imposed for specific types of</p>

	<p>investments without making a distinction between investment allowances and limitations in life and non-life insurance.</p> <p>Life insurance makes only 10% of the total insurance premiums, most of which arise from short term contracts, PA and health insurance riders. However a specific life investment regulation and guidelines should be developed to pave the way for the introduction and development of long-term products in Albania.</p> <p>Specifically, the ALM⁷ regulations should be developed to provide for interest, currency and duration matching.</p>
Score	LO
Comments	<p>The AFSA has established investment regulations which address (i) capital investment and (ii) investment of assets covering technical provisions.</p> <p>The regulation (i) defines investment categories for assets covering technical and mathematical provisions and (ii) sets limitations for specific types of investments.</p> <p>However, specific investment guidelines for life insurance (assets covering mathematical provisions) are not in place. Specifically, the ALM regulations should be developed to provide for interest, currency and duration matching.</p>

ICP 16	<p>Enterprise Risk Management for Solvency Purposes</p> <p>The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>
Description	<p>Pursuant to the Act on Insurance, the supervisor defines how the solvency margin and capital adequacy should be calculated. <i>Articles 96, 91, 92, 93 & 94</i> specify that the solvency margin should be calculated under Solvency I approach.</p> <p>Due to the current rule-based supervisory regime, the requirements of enterprise risk management are not observed in Albania. The legislation has not defined ERM requirements related to the quantification of risk under a sufficiently wide range of outcomes that require the use of complex techniques to reflect the nature, scale and complexity of the risks that the insurer bears.</p> <p>The Act on Insurance (<i>article 70 “Reports of Internal Control Committee”</i>) requires identification of risks through internal audit reports which should provide details on (i) the company's performance, (ii) compliance with regulations and internal guidelines, and (iii) irregularities. Based on legal requirements, two audit reports have to be prepared annually to present irregularities and violations and their estimated impact on the solvency margin, liquidity and other business performance. However, the internal audit function is hindered by (i) the lack of proper risk management requirements, guidelines and practices and (ii) the practical lack of the AFSA independence.</p> <p>There are no requirements for risk measurement or explanations on internal measurement approaches and key assumptions made by companies to assess their risks. The law does not require companies to have their risk management policies:</p> <ul style="list-style-type: none"> ▪ outline how all relevant and material categories of risk are managed, both in the insurer's business strategy and its day-to-day operations;

⁷ ALM: Asset Liability Matching

	<ul style="list-style-type: none"> ▪ describe the relationship between the insurer's tolerance limits, regulatory capital requirements, economic capital and the processes and methods for monitoring risk; ▪ include an explicit asset-liability management (ALM) policy which clearly specifies the nature, role and extent of ALM activities and their relationship with product development, pricing functions and investment management; ▪ define an explicit investment policy with regard to more complex and less transparent classes of assets and investments in markets or instruments that are subject to less regulation; ▪ establish and observe the risk tolerance level; ▪ perform its own risk and solvency assessment (ORSA) regularly to assess the adequacy of its risk management and current and likely future, solvency position.
Score	NO
Comments	The requirements of ICP 16 cannot be met in Albania until it adopts a comprehensive risk-based supervisory approach. In the absence of the risk-based supervisory regime, enterprise risk management cannot be implemented. There are no requirements for risk measurement or explanations on internal measurement approaches and key assumptions made by companies to assess their risks. The law does not require companies to have their risk management policies clearly articulated.

ICP 17	Capital Adequacy
	The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.
Description	<p>The capital adequacy requirements (<i>as specified in articles 91-94 & 96-97 of the Act on Insurance</i>) are based on EU Solvency I requirements and hence, are not risk sensitive.</p> <p>Under the current circumstances, many of the requirements of ICP 17 including (i) total balance sheet approach, (ii) prescribed capital requirement (PCR), (iii) minimum capital requirement (MCR), (iv) group-wide capital adequacy assessment, (v) internal models for calculating regulatory capital etc. are actually not applicable in Albania.</p> <p>The regulatory capital requirements are established in an open and transparent process. The objectives of the regulatory capital requirements and the basis on which they are determined are explicit. The Act on Insurance defines calculation of capital (<i>article 94</i>), solvency margin (<i>article 96</i>), subscribed capital (<i>article 91</i>), additional capital (<i>article 92</i>) and security reserve (<i>article 93</i>) and the basis for calculation of regulatory capital. Yet, these requirements are not risk-based and do not provide for the use of internal models.</p> <p>The Act on Insurance defines the calculation of insurer's solvency margin as equal to the value of assets net of every foreseen obligation or liability (<i>articles 91, 92, 93, 94, 96</i>). <i>Article 92</i> outlines the conditions for calculating the 'additional capital' and elements that should be included in the calculation.</p> <p>If the available solvency falls below the guarantee fund, the supervisory authority may prohibit the free use of insurer's assets (<i>article 106</i>) and also ask the insurer to present a short-term financial plan. If the insurer fails to implement such a corrective action, the supervisory authority is authorized to withdraw the insurer's license (<i>article 128</i>). The withdrawal of the license can be complete or partial (e.g. for several classes of insurance).</p>
Score	PO

Comments	Although the current regulation has established capital adequacy requirements for solvency purposes, the current solvency regime (S1) does not provide for capital adequacy requirements for solvency purposes to enable (i) proper (risk sensitive) solvency assessment and (ii) timely supervisory intervention. The total balance-sheet approach is not required by the current regulatory regime. The concept of 'Prescribed Capital Requirement (PCR),' which requires a specified level of safety over a defined time horizon, is not observed in the current regulation.
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ICP 18	Intermediaries
	The supervisor sets and enforces requirements for the conduct of insurance intermediaries to ensure that they conduct business in a professional and transparent manner.
Description	<p>The Act on Insurance defines two main types of intermediaries (i) insurance brokers and (ii) insurance agents. The Act on Insurance and DCM no. 79, dated 28.01.2008 set further criteria and procedures with regard to (i) licensing of insurance intermediaries and (ii) rules of supervising their business.</p> <p>According to the Act on Insurance (<i>article 76</i>), the intermediary activity shall be carried out by the agents or companies of agents and brokerage companies with a licence provided by the AFSA. The licence for individual agents and brokers is periodically renewed.</p> <p>According to <i>article 120</i>, AFSA supervises the activities of the insurance agents and agencies, brokers and domestic and foreign brokering companies. The intermediary activity is subject to the AFSA's on-site inspections. However, there are no written manuals on the on-site inspection of insurance intermediaries.</p> <p>The AFSA requires insurance intermediaries to possess appropriate levels of professional knowledge and experience, integrity, and competence II and IV of the DCM no. 79.</p> <ul style="list-style-type: none"> • Evidence of professional knowledge shall include experience, education and training. <ul style="list-style-type: none"> ○ AFSA recognizes the training organised by the insurance association for agents. ○ The AFSA organizes broker's examination to test their professional compliance. However, no training modules are provided to guide the applicants' preparation for such exams. • The integrity of applicants is another important requirement of the intermediaries licensing process. It can be established from the documents that applicants must submit to the AFSA. <p>Minimum information on corporate governance arrangements of applicants, including the type of company, managing structures, company charter with responsibilities of senior management and supervisory board are required as a part of the intermediary license application process. The senior management and members of the supervisory board should meet certain professional and integrity criteria. No further requirements are foreseen regarding the policies and internal procedures with relation to governance.</p> <p>At a minimum, the AFSA requires insurance intermediaries to disclose to customers:</p> <ul style="list-style-type: none"> • terms and conditions of insurance coverage. <p><i>Articles 82 & 83, items 1,6 & 7, item 5 of section VII and item 2 of section VIII of the Act on Insurance and DCM no. 79 define the liabilities of the insurance agents and brokers. The brokerage company represents the interests of the insured and prior to concluding a contract, it</i></p>

	<p>should provide explanations and advise them on conditions, time periods, limitations or exclusions of the insurance contract and the insurance premium. It should also explain to the insured all the legal and economic relations between insured and the insurance company.</p> <p>The entity licensed to conduct insurance intermediary activity has to be easily identifiable by the public. To this effect, it must inform the public about its name, family name of the owner and the address, where it conducts its activity; it should also visibly display the document, which certifies that the entity has been licensed to conduct insurance intermediary activity; the logo of the insurance company, on whose behalf the entity operates; and the license valid term.</p> <p>The AFSA requires an insurance intermediary who handles client money to have sufficient safeguards in place to protect these funds.</p> <ul style="list-style-type: none"> • <i>Article 83 item 4</i> of the Act on Insurance defines that the broker shall transfer insurance premiums to the insurance company within 30 calendar days. The premiums cashed in by the brokering company shall be deposited in a separate bank account set up by the broker within the territory of the Republic of Albania. • <i>Article 80</i> requires the brokerage company to maintain a financial guarantee equal to the level of minimal capital (ALL 5 million). • The insurance agent must permanently establish a financial guarantee at 4 percent of the collected annual premium amounts subject to a minimum of ALL 500K for natural persons and ALL 1mm for legal persons. The financial guarantee shall be set on behalf of insurance company in a bank within the territory of the Republic of Albania. <p>The AFSA takes appropriate supervisory action against licensed insurance intermediaries, where necessary. AFSA has the right to withdraw the license in the following cases:</p> <ul style="list-style-type: none"> • intermediary does not start the intermediary activity within 6 months from the date of being granted the license, • intermediary voluntarily exits the intermediary activity in insurance and reinsurance, • the documents submitted in the license application have been forged, • intermediary does not carry out its activity in the interest of the insured or has violated the provisions of this law, • intermediary has intentionally offered false information to the insured or the Authority, • intermediary carries out fictitious activity connected to its own activity (see article 85 of the Act on Insurance). <p>AFSA can impose sanctions on agents and companies of agents and on brokering companies (<i>articles 166 & 167 of the Act on Insurance</i>). The AFSA is obliged to refer the unlicensed intermediaries to the Prosecutor Office.</p>
Score	LO
Comments	<p>There are regulations in place for licensing intermediaries which include fit-and-proper criteria (professional and integrity requirements) and financial requirements. However, there are no training materials for insurance and reinsurance brokers to be used in the preparation for the licensing exams.</p> <p>The Act on Insurance and the respective by-law clearly spell out disclosure requirements which include: explanations and advice on policy terms and conditions, contract time periods, limitations or exclusions, insurance premium, and relations with the insurer.</p> <p>The AFSA requires an insurance intermediary who handles client money to have sufficient safeguards in place to protect these funds.</p>

	On-site inspections of intermediaries are rare and poorly structured (no inspection manuals).
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ICP 19	Conduct of Business
	The supervisor sets requirements for the conduct of the business of insurance entities to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.
Description	<p>Business conduct requirements for insurance companies and intermediaries are defined in article 156 of the Act on Insurance and DCM no.79 dated 28.01.2008, based on which insurers and intermediaries are required to:</p> <ul style="list-style-type: none"> • perform their activities with professionalism, care and devotion to the insured; • act in confidence and honesty in respect of the insured' rights; • inform the insured on insurance products, special and general conditions, expenses and profits they derive from the insurance contracts, as well as fees and premiums that have to be paid by the insurer. <p>Articles 157, 158 & 159 of the Act on Insurance provide specific rules for content, general conditions of insurance contract, as well as disclosure requirements. Insurance products are subject to the AFSA's approval before they are introduced in the market. According to article 159 of the Act on Insurance, the general and specific conditions of the insurance contract must be provided in Albanian language, clearly expressed and easy to understand.</p> <ul style="list-style-type: none"> • According to the article 156 of the Act on Insurance, the insurance company and the intermediary should not provide information, or submit a presentation that may misinform or deceive the consumer. <p>According to the article 158, the insurance company, a branch of foreign company or a brokering company shall be obliged to inform the insured of the following:</p> <ul style="list-style-type: none"> • change of name, address of its seat and branches; • changes of the general conditions, validity period, or the premium for the insurance policy in-force. <p>Article 156, paragraph 1, item d of the Act on Insurance stipulates that insurance companies and the intermediaries should handle and pay all claims in full and on time.</p> <ul style="list-style-type: none"> • Articles 12 & 13 of the Act on Compulsory Insurance define the procedures and deadlines for settling MTPL claims. • The AFSA's Regulation no. 53, dated 25.06.2008 "On the handling procedures of the claims covered by compulsory insurance contracts" further details the rules and procedures for settling the MTPL claims. <p>The AFSA requires insurers to have procedures in place for fair treatment of policyholders, keep consistent information and databases that comply with data protection regulations. According to article 161 of the Act on Insurance, the insurance company and intermediary shall be obliged to protect the confidentiality of all data, facts and circumstances related to the insured in compliance with legislation. The obligation to protect confidential data does not apply in following cases:</p> <ul style="list-style-type: none"> • the insured agrees explicitly in writing for their disclosure, • information is required to establish facts in criminal proceedings and, if the submission is required in writing by the competent court, • information is required to establish facts in investigation proceedings by the prosecution

	<p>office,</p> <ul style="list-style-type: none"> • compliance with legal acts and by-laws for preventing the money laundering, • information is required by the supervisory Authorities for the purpose of supervision within the framework of their competencies; • information is required by the tax collection office. <p>At the AFSA's web page there is a dedicated consumers' protection section with a toll free number for customer complaints; real time access to the AFSA databases via sms services and interactive information regarding motor policies. In addition, the AFSA issues public statements related to unauthorized insurance activities.</p>
Score	LO
Comments	<p>The current regulation sets general business conduct requirements such as product transparency (information on rights, obligations and financial aspects of insurance contracts).</p> <p>While life insurance is still in its nascence, additional regulations are required for disclosure and transparency when selling life insurance products such as unit link insurance where the client shares investment risk with insurer, or long-term products with the guaranteed savings part.</p> <p>The AFSA has developed a) claims settlement guidelines and regulations and b) complaints procedures. However, the practical enforcement of such regulations is yet to be improved through introduction of additional market stabilization and consumer protection measures to ensure proper and timely payment of insurance claims.</p>

ICP 20	<p>Public Disclosure</p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p>
Description	<p>The Act on Insurance requires insurers to publish their audited financial statements on the annual basis:</p> <ul style="list-style-type: none"> • <i>article 75, item 1</i>): “The insurance company prepares and publishes its annual report which includes its (i) audited balance sheet accompanied by (ii) an audit opinion. The publication should be made in daily press and on the company the web site within 15 calendar days from the date of approval by the general assembly, but no later than 6 months after the end of financial year”. • <i>article 75, item 2</i>): “Annual report includes the detailed items annual balance-sheet, loss-profit account and an audit opinion delivered by certified accountants.” <p>Insurer should submit to the AFSA its solvency calculations, technical provisions, investments, and other detailed financial information as per IFRS requirements.</p> <ul style="list-style-type: none"> ▪ Technical provisions are presented by class of insurance. However, no information is required about the future cash flow assumptions, the rationale for the choice of discount rates, or other information, as may be appropriate, to describe the method used to determine technical provisions.

	<ul style="list-style-type: none"> • Technical account is presented by class of insurance to indicate its performance; • Details of reinsurance are provided on a timely basis; • The above information is disclosed to the AFSA, but not available to public. • There are no legal requirements to disclose detailed quantitative and qualitative information about enterprise risk management (ERM), including asset-liability management (ALM) in total and, where appropriate, at a segmented level. <p>There are no requirements to publicly disclose detailed information on the company profile, including the nature of its business, general description of its key products, the external environment in which it operates and information on the insurer's objectives and strategies in place to achieve them. However, as a matter of practice, most insurers have developed their interactive websites where the abovementioned information can be easily found.</p>
Score	LO
Comments	The AFSA collects ample information on the insurance market and on the ongoing basis discloses it to the public. Annual financial statements are made available to the public directly by insurance companies. However, as per ICP requirements, more detailed financial information on insurers should be disclosed to the public.

ICP 21	Countering Fraud in Insurance
	The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report and remedy fraud in insurance.
Description	<p>The current insurance legislation does contain specific obligations for insurers and intermediaries with regards to detection, prevention and correction of fraudulent activities in the area of insurance.</p> <p>Fraud in insurance is a criminal offence and is addressed by the Criminal Code, Section II, (<i>article 145</i>), which stipulates that "Submission of false insurance application (or false information) or fabrication of false circumstances to unfairly obtain insurance compensation is sentenced with five years of imprisonment."</p> <p><i>Article 85</i> of the Act on Insurance stipulates that the AFSA should withdraw the license from an insurance intermediary who commits fraudulent acts. <i>Articles 165 & 167</i> of the Act on Insurance provide penalties for insurance companies and intermediaries, if they do not provide the necessary information or present information that misleads or deceives the consumer.</p> <p>The AFSA does not have effective mechanisms and specialised personnel to identify and prevent legal violations, irregularities, and errors by evaluating the insurers' practices when it comes to treatment of insured. Insurers are not required to develop insurance fraud databases and report them to the AFSA.</p>
Score	PO
Comments	There is no specific regulation or provision in the existing insurance law related to combating insurance fraud. There is no fraud database. The regulator has limited capacity to deter, prevent, detect, report and remedy fraud.

ICP 22	Anti-Money Laundering and Combating the Financing of Terrorism
	The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.
Description	<p>AFSA is not a designated AML/CFT competent authority. This authority is vested in the GDPML.</p> <p>Based on the act on anti-money laundering, the AFSA has the obligation to report to GDPML, if it identifies or suspects that (i) money laundering or proceeds of crime or terrorism financing is being committed, was committed or attempted to be committed, or (ii) funds are related to criminal activity or terrorism financing (<i>articles 3 & 12 of the act on anti-laundering</i>).</p> <p>Based on the act on anti-money laundering, the AFSA's supervision should (i) address the ML/FT issues (ii) provide prompt reports to the responsible authority for any suspicions activities that may relate to ML/FT and (iii) perform several other tasks against money laundering and financing of terrorism (see article 24).</p> <p>The legislation requires the AFSA to seek clearance from the Anti-Money Laundering agency with regards to the source of capital that will be injected in insurance companies.</p> <p>The AFSA does not have effective mechanisms or structures in place to timely address ML/FT issues, especially in life insurance and pensions. There are no on-site inspection manuals or guidelines that could be used by the AFSA in conducting market supervision.</p>
Score	PO
Comments	There is no specific regulation or provision in the existing insurance law regarding anti money laundering. There is no designated unit in the AFSA to address the AML⁸ issues. Although three AFSA employees received some basic training on the subject, still there are no on-site inspection manuals or guidelines that could be used by the AFSA in conducting market supervision. The AFSA received the mandate to address the AML issues only recently.

ICP 23	Group-wide Supervision
	The supervisor supervises insurers on a legal entity and group-wide basis.
Description	<p>The legislation does not address the issue of group supervision.</p> <p>However, the legislation enables the cooperation with other financial supervisors with regards to the supervision of subsidiaries of international groups in Albania, or subsidiaries of Albanian insurers registered outside the territory of the country. In practice, the AFSA has signed MoUs with the supervisors of jurisdictions involved in insurance activities in Albania.</p> <p>The AFSA can extend its supervision to other legal entities, which fall outside the scope of the law (<i>article 120 of the Act on Insurance</i>), in cooperation with the relevant supervisory authorities.</p>

⁸ AML: Anti Money Laundering

	<p>To conclude, although this standard is not quite observed, in practice the AFSA has covered the gap to some extent, through cooperation with other supervisors and participation in supervisory colleges of international groups. A specific MoU has been signed with the Austrian Financial Markets Authority (FMA) on the basis of which the AFSA (i) exchanges relevant information on the Austrian insurance groups operating in Albania, (ii) carries out joint supervisions in Albanian subsidiaries and (iii) is invited to participate in supervisory colleges. Exchanges of information and joint supervisions are carried out with the Macedonian and Kosovan insurance regulators where Albanian insurers exercise their activities through their branches or subsidiaries.</p>
Score	PO
Comments	The current law does not address the issue of group-wide supervision. The cooperation has been recently established (MoUs signed) in recent years with home group supervisors (Austria) or host regulators for subsidiaries of Albanian companies (Macedonia, Kosovo).

ICP 24	Macroprudential Surveillance and Insurance Supervision
	<p>The supervisor identifies, monitors and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilise information from, and insights gained by, other national authorities.</p>
Description	<p>The AFSA is a member of Advisory Financial Stability Group⁹ established in accordance with the provisions of the AFSA law to address macro-prudential surveillance issues.</p> <p>The AFSA performs analysis of insurance sector by collecting data on, but not limited to, profitability, capital position, liabilities, assets and underwriting, to the extent that it has information available at the level of insurers. Quantitative and qualitative analysis of insurers and the market are performed on a quarterly basis, by making use of available sources of information, including the comprehensive EBRD financed supervisory reporting tool, and other sources of information such as the BoA, commercial banks, the Albanian Insurance Bureau, the Supreme Court, and other relevant authorities and information sources.</p> <p>Horizontal reviews of insurers and relevant data aggregation are periodically performed by the AFSA (market statistical reports and annual reports) and published on its official website (www.amf.gov.al).</p> <p>However, the AFSA has not been able to develop tools which take into account the nature, scale and complexity of insurers, to limit potential large and systemic risks that may threaten the development of the insurance sector and adversely affect the financial sector at large.</p> <p>The legal framework does not specifically address macro prudential surveillance nor does it provide mechanisms for proper and timely risk-based intervention in the case of negative trends and developments that might adversely affect insurers and the market performance. However, specific provisions give the AFSA the right to require detailed consolidated financial statements in the case of groups (<i>article 72 of the Act on Insurance</i>). Such reports are analyzed by the AFSA to gain insight in the performance, profitability, capital position, liabilities, assets and underwriting of significant market players.</p>

⁹ The Group is composed of the Minister of Finance, Governor of the BoA, the AFSA Chairperson, and Chair of ADIA.

	<ul style="list-style-type: none"> ▪ The AFSA periodically assesses the potential systemic importance of insurers. The last assessment was conducted in March 2013 as part of the recommendations of the Financial Stability Advisory Group. ▪ The AFSA participates actively in joint inspections and meetings with foreign supervisory Authorities for the purpose of conducting group-wide supervision. ▪ The AFSA cooperates with the BoA to address issues that involve insurance and banking in Albania. ▪ The AFSA has produced a crisis resolution strategy that takes into account relevant factors, including those of systemic nature, in the supervision of individual insurers. The strategy has already been submitted to the AFSG.
Score	LO
Comments	Although the current regulation does not address potential systemic risks such as potential liabilities arising from improper catastrophe insurance underwriting and risk management, aviation risks, or underestimation of life insurance reserves, which may lead to potential financial stability risk, a strategy has already been developed by the AFSA to deal with these risks. This strategy can be further strengthened by properly addressing the catastrophe risk which presents the main systemic threat to the local insurance market. See Annex I for details.

ICP 25	Supervisory Cooperation and Coordination
	The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.
Description	<p>The Act on AFSA (<i>article 14</i>) enables the AFSA's to cooperate with other insurance supervisors and relevant authorities, subject to bilateral or multilateral agreements signed in compliance with all legislation, rules on confidentiality, and best international practices.</p> <p>The AFSA cooperates closely with the BoA through exchange of information and joint supervisions of insurance and banking enterprises. The AFSA cooperates with all other agencies as deemed necessary for the supervision of insurance market.</p> <p>AFSA is already a registered entity under “The Commissioner for personal data protection.” Also, the AFSA is seeking to sign an agreement with “the National agency for information society,” which is a national institution that ensures confidentiality during the exchange of state data.</p> <p>The AFSA has signed MoUs with all home supervisors of insurance groups which operate in Albania (FMA Austria) as well as supervisors of jurisdictions where Albanian companies have established their subsidiaries (Macedonia, Kosovo). Recently, the AFSA has been invited to participate in supervisory colleges of insurance groups which operate in Albania.</p> <p>Cooperation agreements with other supervisors include establishing effective procedures for:</p> <ul style="list-style-type: none"> • information flows between involved supervisors; • convening periodic meetings of involved supervisors; and

	<ul style="list-style-type: none"> conducting comprehensive assessments of the group. <p>The FSA participates actively in the CESEE¹⁰ Insurance Supervision Initiative, where CESEE supervisors gather twice a year to discuss the most important challenges in respective jurisdictions.</p> <p>The AFSA is a member of the International Association of Insurance Supervisors and participates in its comprehensive activities.</p>
Score	O
Comments	The current regulation does not address group-wide supervision. However, effective cooperation has been established with supervisors of other countries. To that effect, MoUs have been signed and the AFSA has been invited to become part of supervisory colleges.

ICP 26	Cross-border Cooperation and Coordination on Crisis Management
	The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.
Description	<p>The Act on AFSA (<i>article 14</i>) defines the AFSA's mandate to cooperate with other insurance supervisors and relevant authorities, subject to bilateral or multilateral agreements signed in compliance with all legislation, rules on confidentiality and best international practices.</p> <p>The AFSA cooperates closely with the BoA through exchange of information and joint supervisions of insurance and banking undertakings. The AFSA cooperates with all other agencies as deemed necessary for the supervision of insurance market.</p> <p>AFSA is developing a crisis resolution strategy, as part of the recommendations issued by the AGFS, whose members are the Minister of Finance, the Governor of the BoA, the Chair of AFSA, and the Chair of ADIA</p> <p>The AFSA has signed MoUs with all home supervisors of insurance groups which operate in Albania (FMA Austria) as well as supervisors of jurisdictions where Albanian companies have established their subsidiaries (Macedonia, Kosovo). Recently, the AFSA has been invited to participate in supervisory colleges of insurance groups which operate in Albania.</p> <p>The AFSA is actively participating in the regional insurance initiative of the CESEE supervisors, established and coordinated by the Austrian and the Hungarian Authorities. The meetings are held at least twice a year.</p> <p>However, the current rule-based supervisory approach and the AFSA's limited institutional capacity (due to inability to effectively organize its activities and hire experienced professionals) impair its ability to carry out proper and timely assessment of insurers commensurate with the nature and complexity of risks they underwrite. Due to the lack of the RBS, the current supervisory and legal regime does not empower the AFSA to look into contingency plans and operational risk management of insurers.</p>
Score	PO

¹⁰ Central, Eastern and South Eastern Europe

Comments	<p>Although the cross border cooperation exists, in practice the AFSA does not have the mandate to look into contingency plans and operational risk management of insurers under the current law due to the lack of the RBS.</p> <p>The AFSA's limited capacity (due to inability to effectively organize its activities and hire experienced professionals) prevents it from conducting proper and timely assessment of insurers commensurate with the nature and complexity of risks.</p>
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H. AFSA Comments on Findings and Recommendations

48. **The assessment on the IAIS ICP observance and FSAP recommendations were discussed with the AFSA in detail.** The AFSA confirmed its agreement with the detailed assessment on the observance of each ICP and recommendations provided by the FSAP team. A summary of AFSA's main comments to the FSAP documents is provided below along with the respective clarifications from the assessor.

49. **The AFSA agreed with the FSAP recommendation to introduce emergency market stabilization measures in MTPL insurance through minimum reserving requirements along with a vigorous enforcement mechanism and asked for specific details with regards to implementation timelines, minimum reserving amounts, funding requirements.** Due to the limited scope of the FSAP, the provided recommendation cannot be detailed further without undertaking an additional technical analysis of the requirements to the amount of such minimum reserves and the modalities of their minimum funding requirements. The requested detailed technical requirements will be developed with the World Bank support during the preparation of the upcoming DPL program over the next few months.

50. **The AFSA commented that in a liberalized MTPL insurance market, it has no legal power to supervise the pricing practices by the MTPL insurers and may not be able to control prices (whether low or high).** From the FSAP assessment, the current real (discounted) prices for MTPL insurance coverage in Albania are about 25% of those in the neighboring countries, which shows that the main problem of the market is the claims payment performance and the overall market capital adequacy. Hence, it is expected that the proposed market stabilization measures will put the minimum “floor” for the future MTPL rates due to the minimum reserve funding requirements. This does not mean however that all companies will start charging the same rate for the MTPL coverage.

51. **The AFSA agreed with the recommendation to restore the Compensation Fund by requiring insurance companies to finance the outstanding liabilities of the Fund. Due to a potential liquidity pressure on insurers from the proposed MTPL stabilization measures, the AFSA suggested to have a transitional period of three years during which the insurance market would (i) pay all compensation fund claims and (ii) establish a mechanism for consistent funding of liabilities on an ongoing basis.** The FSAP recommends that the suggestion for a transitional period until the consolidation of a fully financed Compensation Fund, should be detailed and specified by the AFSA in an action plan to ensure (i) full and timely payments of all current liabilities of the Compensation Fund; and

(ii) sustainable financing of the Fund in the future. Other countries have implemented additional legal requirements to ensure a minimum level of financing for such funds regardless of their current liabilities. Such international practice may be considered when amending the MTPL law. The potential increase in insured claims reserves of several insurers should reflect the liabilities arising from the underlying business. Hence the assessment of insurers' liabilities arising from insured claims should remain fully independent from the assessment of uninsured claims liabilities (e.g. those of the Guarantee Fund).

52. The AFSA highlighted the fact that fines imposed on the uninsured motorists are not used to finance the Compensation Fund, although the MTPL Law mentions them as a source of financing. The FSAP identified that the Law simply mentions that the Compensation Fund can be financed through fines imposed on uninsured drivers, without detailing the level of financing. It is important that the Law is amended to specify the share of fines to be allocated to the Compensation Fund. In addition, a close cooperation should be established with the government agencies to reduce the level of uninsured drivers in the country.

53. Enactment of a risk based supervisory approach providing for risk ratings, early warning solvency requirements and a clear on-site inspection mandate was seen by the AFSA as a long process. The FSAP mission clarified that the recommendation referred to paving the way for a gradual introduction of the risk based supervision through the enactment of necessary legal framework. Such a process has already started with the preparation of the new draft Insurance Law by the AFSA. The full-scale implementation of the risk based supervisory approach will certainly be a longer-term process which may require technical assistance to AFSA from the Bank or other professional organizations.

54. The AFSA concurred with the proposed development alternatives of the nascent insurance market through (a) establishment a national compulsory earthquake insurance program, (b) introduction of liability insurance requirements for various professional services and (c) waving the VAT requirement for at least non-compulsory insurance products. However, such initiatives would require government's commitment to develop and enact respective laws and support their implementation. The role of government in the establishment of the national earthquake insurance program was clearly stated in the FSPAP Aide Memoire provided to the government and discussed at length with the MoF which expressed support for this measure. The implementation of market development measures in general will also require government support and extensive technical assistance.

55. The recommendation for a more transparent consultation with insurance market on enactment of insurance laws and regulations was deemed by the AFSA as observed. The current level of cooperation with the market was acknowledged by the FSAP Mission. However it was further recommended to enhance the process of consultations with the market by providing insurers with: (a) timely information about the forthcoming legislative initiatives, and (b) sufficient time to provide their input on new laws and regulations. Insurers' inputs to the law making process have to be acknowledged and accounted for

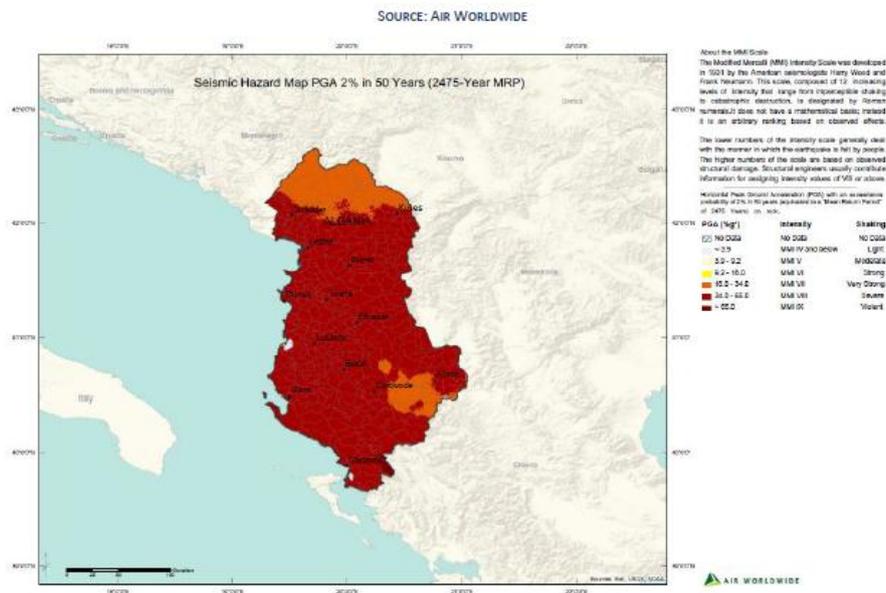
through transparent and timely comments by AFSA on their submissions. In addition, the FSAP Mission recommended to AFSA to issue a regulation that would clearly spell out the procedure for market consultations for all future AFSA's legislative initiatives.

56. The AFSA highlighted the fact that only life insurance companies and reinsurance companies are subject to Law no. 9917, date 19.05.2008 "On Anti money Laundering and Counter Terrorism Financing. In general, it is assumed that the AML and CFT risks are higher for life insurers and reinsurance companies compared to other insurance market players. However, the FSAP recommended that the scope is expanded to give the AFSA a legal mandate for monitoring all insurance activities for the risk of money-laundering and terrorism financing.

I. Annex 1 - National Earthquake Insurance Program in Albania

57. Albania is highly vulnerable to natural disasters and climate change. As shown in figure 10 below, almost all the country falls into a very high seismic zone, while the standards of construction are yet to be desired. Insurance coverage of natural hazards among homeowners and small and mid-size businesses is almost non-existent (only 1-2 houses out of 100 currently have private catastrophe insurance coverage), which in case of a major event would have to appeal for government help.

Figure 10: Earthquake Hazard Risk in Albania

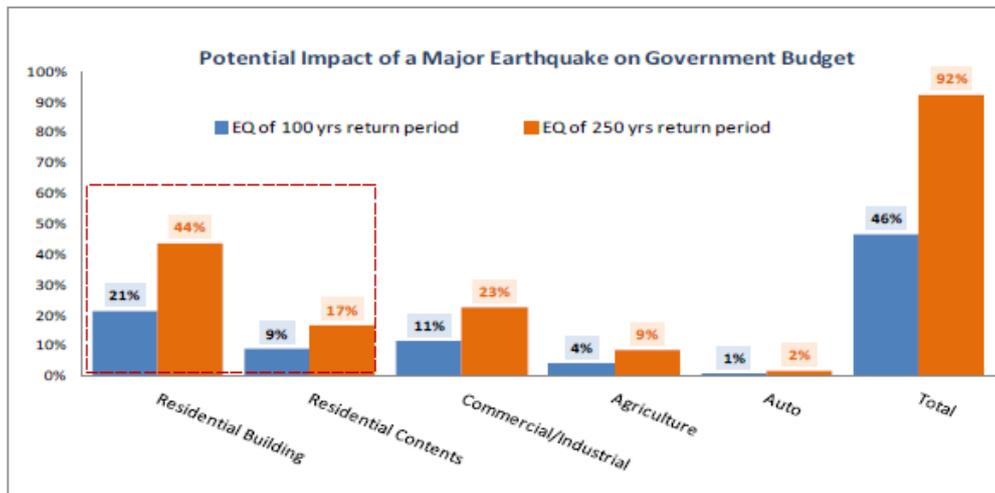


Source: AIR Worldwide

58. A major earthquake would (i) result in devastating losses for consumers, the local financial sector and the Albanian economy at large and (ii) cause irrecoverable fiscal impact to the state budget which, as shown in Figure 11 below, may not be

sufficient to cover the losses and ensure the country's financial stability in the absence of alternative risk mitigation solutions.

Figure 11: Potential Impact of Major Earthquakes on Government Budget



Source: AIR Worldwide

59. **Yet, there is a significant earthquake risk accumulation in insurers' balance-sheets, a major part of which comes from insurance of properties used as loan collateral by local banks.** Through this insurance coverage, a typical earthquake portfolio of a small size insurer with minimum capital (EUR 3mm) gets exposed to a risk accumulation of about EUR 380 mm of earthquake risk mainly in Tirana. Such risk accumulations require proper capacity to ensure that claims are paid in full and insurer remains solvent after the earthquake, which currently is often not the case due to very expensive (hence unaffordable) catastrophe reinsurance for rather small earthquake insurance portfolios with minimum rates-on-line applying despite low business volumes.

Rationale for a National Earthquake Insurance Program

60. **The main rationale for the National Earthquake Insurance Program is to mitigate the adverse financial effects of earthquake risk on government budget, the local financial sector, and the Albanian economy at large.**

61. **Given the small size of the Albanian economy, to ensure meaningful risk diversification the proposed National Earthquake Insurance Program shall make earthquake insurance compulsory for all Albanian homeowners.** The compulsory nature of the program will ensure wide public participation thus contributing to the better diversification of risk country wide and hence helping to obtain lower rates from the global reinsurance market. For instance, in the case of Romania, which has a compulsory earthquake insurance program developed with the World Bank assistance, about 60 percent of homeowners buy insurance coverage which guarantees highly affordable premium rates. The Program should also set out the minimum risk management and program participation requirements for all local insurance companies.

KEY Considerations

62. **The National Earthquake Insurance Program should take into account the international experience** of other countries (e.g. Turkey, Romania) where similar insurance programs were implemented with extensive technical and financial assistance from the World Bank.

63. **The National Earthquake Insurance Program should spell out the scope of insurance coverage, eligibility criteria and compliance enforcement mechanisms, the stakeholders' role in program administration and the minimum risk management requirements.** All homeowners should be covered by the program. However, some minimum risk underwriting criteria may still apply to certain risks such as uninhabited dwellings or dwelling under construction. **The launch of the national Earthquake Insurance Program will not require any budget outlays.** On the contrary, it will help to effectively mitigate the adverse fiscal impacts of future catastrophic events on the government budget.

64. **The Program can also help the government to finance annual budgetary expenses related to the delivery of post-disaster aid to the population affected by such perils as flood and landslides** by allocating a certain percentage of insurance premiums (to be defined by Program) collected under the earthquake insurance program to a Special Disaster Relief Fund.

65. **With a proper structure and massive public participation in the program, the insurance premium rates for homeowners and reinsurance coverage are expected to be quite affordable.** The affordability can be further enhanced by having the Program provide for payment of insurance premiums in installments. The program should also set minimum limits of coverage in the range between EUR 20,000 - 40,000 to (a) satisfy the basic insurance coverage needs for most homeowners while keeping the premiums affordable – (e.g. below EUR 50 per year).

66. **The enactment of the Earthquake Insurance Program will help reduce the financial risk posed by large earthquakes to the households and the government,** which is currently exposed to such catastrophic events through uninsured (or inadequately insured) banks' collateral and insufficient reinsurance coverage of catastrophe risk accumulations assumed by the local insurance market.

67. **Last but not least, the Program will boost the development of the local insurance market in Albania by adding a new important line of business.** Premiums from earthquake insurance are expected to mitigate the adverse mid-term impact of the MTPL insurance market stabilization measures proposed under this FSAP on the local insurers.

68. **To ensure high credit quality of sold insurance coverage and easy access to such insurance for all domestic consumers, the Program should introduce prudent risk**

management and market conduct requirements for insurance companies participating in the program.

J. Appendix 1- Legislation

69. Insurance Legislation

- Act on AFSA – Law no. 9572, dated 03.07.2006 “On the Financial Supervisory Authority in Albania”.
- Act on Insurance – Law no. 9267, dated 29.07.2004 “On the activity of Insurance, Reinsurance and Intermediary in Insurance and Reinsurance”; as amended by Law no. 9685, dated 26.02.2007.
- Act on compulsory insurance – Law no. 10076, dated 12.02.2009 “On compulsory insurance in the transport sector”, as amended by Law no. 10455, dated 21.07.2011.
- *Bill on AFSA – draft-amendment on the law on AFSA, submitted to the Albanian Government.*
- *Bill on insurance – Draft-law on the activity of insurance, reinsurance and intermediary in insurance and reinsurance, submitted to the Albanian Government.*

70. Other relevant Legislation

- Act on securities - Law no. 9879, dated 21.02.2008 "On Securities".
- Act on bonds - Law no. 10158, dated 15.10.2009 "On Corporate and Local Government Bonds".
- Act on CIS - Law no. 10198, dated 10.12.2009 “On Collective Investment Undertakings”.
- Act on companies – Law no. 9901, dated 14.04.2008 “On Entrepreneurs and Commercial Companies”.
- Act on registration – Law no. 9723, dated 03.05.2007 “On National Centre for Registration”.
- Act on accounting - Law no. 9228, dated 29.04.2004 “On Accounting and Financial Statements”, as amended by Law no. 9477, dated 09.02.2006.
- Act on auditing – Law no. 10091, dated 05.03.2009 “On legal auditing, profession organization of the registered auditor and chartered accountant”.
- Act on bankruptcy – Law no. 8901, dated 23.05.2002 “On Bankruptcy”.

- Civil Code – Law no. 7850, dated 29.07.1994 “On the Civil Code of the Republic of Albania”, as amended.
- Act on consumer protection – Law no. 9902, dated 17.04.2008 “On Consumer Protection”.
- Act on mediation – Law no. 10385, dated 24.02.2011 “On Mediation in Conflict Resolution”.
- Act on anti-money laundering - Law no. 9917, dated 19.05.2008 for the “Prevention of money laundering and finance of terrorism”, as amended.
- Criminal Code - Law No. 7895, dated 27.01.1995. “Criminal Code of the Republic of Albania”, as amended (Albanian consolidated version as of 2011).