INSURANCE REGULATION IN ZIMBABWE: IS IT AN ENABLER OR BURDEN TO THE SECTOR?

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Outline

- Definition of Insurance Regulation
- Methods of Regulation of Insurance
- Why is Insurance regulation needed?
- Any alternatives to Regulation or other forms of intervention?
- Barriers against adoption of other forms of intervention Regulation
- Instruments of Regulation
- Industry Challenges & Regulatory interventions?
- Emerging Best Practises in Insurance Regulation
- Conclusion
The National Association of Insurance Commissioners of United States refers to insurance regulation as that part of state regulation that protects consumers by ensuring that insurers meet their contractual promises through various requirements such as insurer licensing, broker licensing, insurance policy regulation, financial regulation, market conduct, and consumer protection services.
Methods of Regulating Insurance Companies

- **State regulation**

  Refers to situations where the government enacts enabling Act of parliament resulting in a statutory agent or authority to regulate the sector. The Insurance and Pensions Commission (IPEC) was created in the year 2000 through Insurance and Pension Commission Act (Chapter 24:21). IPEC prosecutes its mandate through the Insurance Act 24:07 and Pensions and Provident Fund Act 24:09 but may also derive subsidiary legislation through regulation (through the Minister of Finance and Economic Development), and the Commissioner of Insurance and Pensions may issue guidelines, circulars or directives to guide the industry further.
Regulation through Judiciary System

- Judiciary system

Rejda (2009) argues that court judgements are significant as they examine the constitutionality of insurance legislation, interpretation of insurance contracts, the legality of actions of the state regulatory agency thus shaping the entire industry i.e Magistrate Court, Labour Court, Civil Court, High Court, Supreme Court and the Constitutional court.
Self-regulation

Applies industry voluntarily agree in Memoranda of agreements to implement mutually agreed professional best ethics, practice and standards. These are at best gentleman’s agreements and non-binding involving players of the same trade eg ICZ, ZAFA, LOA, ZAPF
Many scholars believe that insurance companies must be regulated to protect the insurance customers in society. Given that insurance policies are take-it-or-leave-it contracts drafted by insurers (contracts of adhesion), this magnifies the pivotal role that insurance regulators must play in protecting and promoting policyholder interests throughout the existence and demise of insurers.
1. The existence of market failures and precedents of prejudice to society

- Economists as noted by Spulber (1989); Viscusi, Vernon and Harrington (2000) cite the presence of market failures such as economic crisis as the foundation that justifies regulation.

- Examples: A total of forty-two (42) insurance companies were closed post-dollarization in the period 2009 to July 2017 - (21) were brokers, (13) were non-life insurance companies, (3) were life companies, (3) were reinsurers whilst (2) were funeral assurance companies.
2. To address market irrationality by firms and members of the public

Stiglitz noted that the irrational actions of an individual or a firm may have knock-on effects on society. A person might not save enough for retirement and therefore governments have introduced compulsory basic pension funds eg National Social Security Scheme in Zimbabwe, price regulations to tame unjustified profits by firms e.g health insurance such as the great Obamacare in the USA in 2009.
3. To compensate for inadequate insurance consumer knowledge

Rejda (2011) concludes that insurance contracts are legal documents with complex terms, conditions, warranties and provisions. There is a massive knowledge imbalance in favour of the insurance company which might offer too restrictive and legalistic policies to the disadvantage of society. There is need to guard against unscrupulous agents and brokers from misleading the public eg promising loans if one buys insurance.
4. **To address supply-side challenges**
   - Government may want to improve the availability of insurance which the market may find economically unviable because of unavailability of information, inadequate prices and a history e.g. India where Insurance Regulatory and Development Authority (IRDA) requires life insurers to hold at least 9% of all policies to be rural insurance otherwise penalties will be applied by the regulator.
   - **Ensuring financial inclusion-Microinsurance**
5. **Fostering public safety on innocent third parties and society at large.**

- In Zimbabwe, the Road Traffic Act Chapter 13:11 requires all motor vehicles to have a minimum third-party cover, all public transporters must have passenger liability cover and a certificate of fitness from the Central Vehicle Inspectorate Directorate (VID).
6. To boost public confidence in the Sector

- Insurer insolvencies may spill beyond policyholders to other creditors. Examples that quickly come to mind include mortgage providers, banking fraternity, hire-purchase shops, government departments.
Any alternatives to Regulation or other forms of intervention?

- Some researchers posit that regulation can be substituted at lower costs through imposing commensurate taxes and subsidies e.g. if greenhouse gases cause global warming and smoking is an undesirable social cost, then prohibitive taxes may be levied.
- But research by other scholars boldly proved that such alternatives were insufficient to substitute regulation due to the following challenges:
Barriers against adoption of other forms of intervention Regulation

- **Pricing and Quantifiability Complications**
  Researchers have observed that not all market malpractices are easily quantified through price computations such as: terrorism activities, anti-competitive practices, greenhouse gas emissions.

- **Imperfect information and incomplete contracting**
  Commensurate pricing requires accurate information and contracting which may be difficult and complex to get.
1. Use of disclosure requirements to the insurance customers

Regulatory requirements for improved accessibility to information lead to more efficient resource allocations e.g. mandatory publication of audited financials in the new Insurance bill, public display of financials on notice boards, annual reports etc.
2. Use of mandates
This refers to instances where the government gives certain rights to the firm in exchanges for responsibilities eg The Zimbabwean government, through the National Social Security Authority Act of 1989 [Chapter 17: 04] (NSSA Act), provided for mandatory subscription by all employees for the provision of minimum pensions and the Accident Prevention and Workers Compensation Scheme which insures all employees in hazardous jobs.
3. Imposing a direct ban (proscriptions) in insurance conduct and practices

Government out-rightly bans certain market behaviours. In terms of the Insurance act, **thau shall not** trade without a license, all assets of insurers must be invested in Zimbabwe and assets pledged as capital must be registered in the name of the insurance company.
4. Imposing ownership limits
This refers to governments’ efforts in restricting anti-competitive tendencies and actions in society. In terms of section 4(b) of Statutory Instrument 59 of 2005 read in conjunction with the Insurance Act 24;09, no individual or individual may own or control more than 40% of the voting shares of an insurance company.
What are the key ingredients of Insurance Regulation?

Insurance regulation involves various aspects:

1. **Solvency Regulation (SR)**

Brown and Klein (2015, p 241) define SR as that which seeks to reduce the risk that an insurer will be unable to meet its financial obligations due to financial distress or bankruptcy and to promote confidence in the financial stability of the insurance sector.

Without regulation, it is difficult for ordinary policy owners to monitor the financial soundness of insurers. Chandler (1999) and Hunter (2005) argued that solvency regulation was at the heart of insurance regulation. The underlying aim was making sure the policyholders can claim and be paid on demand in future.
2. Market conduct regulation

- Klein (2011) defined market conduct regulation as that which covers market practices such as product design, marketing strategies and claims adjustment. Abusive business practices of insurers and agents need to be managed through regulation requirements about policies offered, fair claims settlement and adequate disclosures.

- The industry has taken steps to mitigate market conduct problems through self-compliance measures and the establishment of a voluntary self-regulatory organisation (SRO)
3. Price and product regulation

According to Regan, Tennyson and Weiss (2009), the twin objectives for nations in regulating insurance prices are to ensure affordability and availability of insurance cover although the traditional motive was price adequacy, commensurate and non-discriminatory premiums. Selten (1975) argues that ‘adequate’ rates, shields the insurance sector from underpricing which may collapse the more rational players and the entire insurance system.
4. Disclosure requirements to the insuring public

- According to Munch and Smallwood (1980), one big indicator of market failures in the insurance sector was information asymmetry (one party to the insurance contract having more information than the other).

- Regulators endeavour to correct this information imbalance by putting minimum disclosure requirements such as scheduled publication of audited and unaudited financials, quarterly reports.
Industry Challenges & Regulatory interventions?
## Insurance Industry Challenges & Regulatory Interventions by IPEC

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<thead>
<tr>
<th>Challenge</th>
<th>Action</th>
<th>Output</th>
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<tbody>
<tr>
<td>1. Poor corporate governance and poor internal controls</td>
<td>Created Corporate governance Risk management guidelines</td>
<td>Guidelines in place</td>
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<tr>
<td>2. Low insurance penetration rate</td>
<td>Introduction Microinsurance Framework of 2 licensed micro insurers</td>
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<td>3. Low underwriting capacity</td>
<td>Increased regulatory capital of S.I 95 of 2017</td>
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<td>4. High premium debtors</td>
<td>Restriction premium instalments of S.I 95 of 2017</td>
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<td>5. Low business persistence ratio</td>
<td>Consumer education activities, registration of non-traditional channels (M-Insurance)</td>
<td>Empowered public, easier insurance transactions</td>
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<tr>
<td>6. Disclosure issues</td>
<td>Drafted Disclosure guidelines</td>
<td>Guidelines now in place</td>
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<td>7. Information systems</td>
<td>Landscape survey on availability effectiveness ongoing and ICT</td>
<td>Survey results</td>
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<td>8. Outdated Legislation</td>
<td>Facilitated drafting of Insurance Bill</td>
<td>Bill in cabinet</td>
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<td>9. Low confidence</td>
<td>Conducting Consumer education and awareness campaigns</td>
<td>Enlighted insurance customers</td>
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<tr>
<td>10. Currency Risk</td>
<td>Engaging MOFED &amp; RBZ</td>
<td>Prioritization of payments of external premiums due</td>
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<tr>
<td>11. Liquidity Challenges</td>
<td>Enforcement of Trust accounts, restriction on premium installments</td>
<td>Reduced premium debtors</td>
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Emerging Best Practises in Insurance Regulation

1. The use of Solvency II in the United Kingdom and Europe, Solvency Modernization Initiative (SMI) in the United States, SAM in South Africa

According to the Institute and Faculty of Actuaries (2016), Solvency 2 is a model for the introduction of capital requirements which are sensitive to the risk levels of the business undertaken by the Insurer. Pillar I consist of Quantitative Requirements such as capital and reserves while Pillar II deals with the supervisory reviews by the regulator). Pillar III defines public disclosure requirements for the insurance industry.
Emerging Best Practises in Insurance Regulation (contd)

2. Worldwide adoption of International Core Principles (ICPs) set up by the International Association of Insurance Supervisors (IAIS)

- IAIS — consists of 200 of insurance regulators and supervisors controlling 97% of the world's insurance incomes.

- The organisation seeks to promote efficient and internationally consistent insurance regulation to develop, maintain a fair and secure and stable insurance market globally for the protection of
policy owners as well as contributing to global financial system stability.

- The IAIS’s ICPs is a comprehensive framework for insurance supervision, guiding the insurance regulators on best practice supervision of financial requirements, governance issues, and market practice matters.
3. Rating Agencies – Insurer Financial Strength Ratings (IFSR)

- The IFSR is a rating done based on the agency’s opinion of the financial soundness and ability to meet claims payment obligations.

- Assuming correct ratings, an insurer’s current rating may indicate its future probability of failure. Examples of rating agencies are Moodys’, Standard & Poors, Fitch and A.M. Best. A typical full rating consists of both qualitative and quantitative analysis.
The Institute and Faculty of Actuaries of the United Kingdom (2016) argue that the openness by an insurance company to an independent IFSR rating gives peace of mind and confidence about company's financial strength for various critical stakeholders such as policyholders, investors, intermediaries and regulators.
Conclusion

- Insurance regulation is that part of **state regulation** that protects consumers and is a worldwide phenomenon.
- Insurance regulation and industry players are 2 sides of the same coin and must coexist and collaborate.
- Insurance regulation is the most ideal form of state intervention in insurance markets due to various reasons.
- However best practice in insurance regulation is evolving and regulators must incorporate these in their legislation in order to promote sustainability of the sector both from consumers’ perspectives and players.
- IPEC is prosecuting various initiatives to arrest various industry challenges.
Questions