Bankruptcy
Conservatrix N.V. (2020)

Netherlands

Background and context

Table 11: Financial profile of Conservatrix N.V.

Key Figures	2018	2017	2016	2015	2014
Gross premium (€' million)	26.3	29.4	32.4	47.6	115.6
Result after tax (€' million)	(9.5)	95.2	(14.9)	30.6	(71.0)
Solvency I ratio				13%	(74%)
Solvency II ratio	148%	188%	(16%)		
Number of policy contracts	83,301	86,258	88,881	N/A	N/A

The Dutch insurance market is the fifth-largest in Europe (as of 2018) with €77 billion ($93 billion) of gross written premiums. It is concentrated in health insurance, which is mandatory for every person living and working in the Netherlands. Hence, health insurance accounts for more than 66% of the total gross written premiums of the insurance industry, followed by life (17%) and non-life (17%). The insurance industry in Netherlands is regulated by De Nederlandsche Bank (DNB) – the Dutch central bank, supervisor and resolution authority.

Conservatrix N.V. (Conservatrix) has been operating in the Dutch market since 1872 specializing in life insurance, pension and mortgages. In particular, the pension policies represent a significant proportion of the total value of policies. Conservatrix is a relatively small insurer with about 80,000 policy owners, and the first life insurer to be declared bankrupt in Netherlands since 1993.

Events leading to the failure of Conservatrix

Conservatrix was owned and managed by the Henny family. As a family-owned business, insufficient checks and balances led to suboptimal management decisions. As a result, Conservatrix sold high guaranteed return and profit-sharing policies without being able to generate sufficient returns to support the promised returns.

When Conservatrix ran into trouble in 2014, several measures were explored to revive the company. A trustee was appointed and to safeguard the interests of its existing and prospective policy owners, Conservatrix stopped selling new policies in 2015 (the restriction on sale of new policies continued until the bankruptcy of Conservatrix in 2020). Additionally, the search for a new owner turned out to be unsuccessful. Conservatrix also considered exercising an "en bloc" clause to adjust its profit-sharing arrangements with policy owners. However, this exercise was unfavourable to the DNB because it meant that policy owners would have to bear the burden of loss, instead of the shareholders of Conservatrix who were unwilling to inject capital.

In the following years, the financial situation of Conservatrix further deteriorated. Its solvency ratio dropped to 13% in 2015 – far below the mandatory limit of 100% – and worsened to a negative position with the introduction of Solvency II in 2016.

Forced share transfer, recapitalisation and dividend restriction

In 2017, Conservatrix did not have sufficient funds to meet its future obligations to policy owners. To protect the interest of policy owners, the DNB exercised its powers to expropriate the shares of Conservatrix from existing owners and effect a transfer of the same to Trier Holdings, a Dutch company owned by US investment group Global Growth (formerly Eli Global). The transfer was approved by the Amsterdam District Court in May 2017.

Subsequently, the solvency ratio of Conservatrix was restored through capital injection by the new owners and a reinsurance arrangement with Colorado Bankers Life Insurance Company (Colorado Bankers, which was part of the Global Growth group in the US).[94] The capital injection was reported to be €88 million ($106 million), comprising a cash deposit of €18 million ($22 million) and reinsurance of €70 million ($84 million). The financial performance of Conservatrix in 2017 then improved substantially due to an increase in the reinsurers' share of technical provisions and release of risk margin. As part of the transfer agreement, Conservatrix also agreed to refrain from paying dividends for ten years. Even though the trustee's appointment was revoked following the recapitalisation, Conservatrix continued to remain under DNB's intensified supervision.

Conservatrix then underwent further restructuring. This included, among others, strengthening of the leadership team, improving governance, stabilisation of its operations, reserve strengthening and changes in asset composition, as well as the strategy to turn around the company for growth through acquisitions or incremental sales. According to claims by Global Growth (the ultimate owner of Conservatrix), it intended to increase the profitability of Conservatrix via provision of loans with high returns to other subsidiaries of Global Growth, an approach which was not acceptable to the DNB.

Challenges faced by Global Growth impacting Conservatrix

In 2019, the solvency ratio of Conservatrix fell below the mandatory requirement of 100%, owing to weak operating results and losses from reduced valuation of the reinsurance agreement signed with Colorado Bankers (which was placed under rehabilitation in the US in June 2019). Meanwhile, there were also adverse reports in the US of alleged misappropriations relating to the founder of Global Growth. In March 2020, the founder was convicted of bribery. Following intervention by regulators in the US, Conservatrix was left to seek for additional capital without support from its owner.

In May and July 2020, Conservatrix made announcements that it had insufficient buffers to meet future obligations to its policy owners, and was unable to restore its capital to the mandatory level within the required timeframe. Conservatrix then requested support from the Ministry of Finance in August 2020, which was rejected by the Minister of Finance. The DNB proceeded to appoint a trustee[95] in September 2020. At the request of DNB, Conservatrix was declared bankrupt in December 2020.

[94] As part of the agreement with DNB, the new shareholders recapitalised the company and restored the Solvency II ratio at 188% (above the minimum internal target level of 135%) through capital injection of €18.4 million and a reinsurance arrangement of €72.1 million

[95] This is not a bankruptcy trustee, but a person that DNB can appoint to an insurer that fails to meet statutory capital requirements

Resolution actions

Bankruptcy with possibility of transfer to another insurer or pay-out to policy owners

Conservatrix was declared bankrupt for failing to meet the regulatory capital requirements, having insufficient cash to pay for the benefits of €800 million ($964 million) promised to its policy owners, and without any prospect of improvement in its financial position.

> ***A bankruptcy was unfortunately inevitable because Conservatrix was unable to meet the capital requirements ... and an alternative solution proved impossible within the foreseeable future***
>
> De Nederlandsche Bank

Bankruptcy trustees have been appointed by the court to wind up the bankruptcy. The trustees were looking into options, including the takeover of Conservatrix's policies by a healthy insurer. However, this may require changes to the policy conditions, which are subject to approval by the court. There were also reports of the possibility of industry peers stepping in to save Conservatrix, but contingent upon having the leeway to make changes to the policies.

In the event of an unsuccessful transfer, the insured policy owners will be paid from the assets of Conservatrix. Concomitantly, policy owners could end up receiving less than their entitlements. In January 2021, it was reported that the bankruptcy trustees disclosed the maximum discount rate to be 30% on future payments to the policy owners of Conservatrix. A bail-in of policy owners could support the continuation of insurance policies (particularly for life insurance) with portfolio transfer. This is generally recognised to be the preferred option compared to the termination of policies in insolvency proceedings. In 2018, an earlier analysis of termination performed on Conservatrix foresaw significant losses. In essence, policy owners could still prefer to have continuation of policies even with bail-in, rather than termination of the same in insolvency.

In July 2022, Chesnara PLC finally announced the acquisition of Conservatrix, of which saw the latter's insurance portfolio being acquired by Waard, Chesnara's Dutch closed book operation. The acquisition was effected through the transfer of the insurance portfolio (together with certain other assets and liabilities) to Waard. However, in order to support the solvency position of the Conservatrix insurance portfolio, Waard injected capital of €35 million ($36.5 million). Conservatrix customers became part of a Waard and continued to enjoy their policy benefits under the new institution.

Resolution of Conservatrix – Timeline of Key Events

2014-2017
Conservatrix ran into troubles as its solvency ratio deteriorated. It had to cease the sale of new policies from 2015 onwards.

May 2017
DNB expropriated the shares of Conservatrix from existing owners and effected a transfer to Trier Holdings (owned by Global Growth from the US); the transfer was approved by the Amsterdam District Court.

2019
Conservatrix's solvency ratio fell below the regulatory requirement of 100%.

Mar 2020
Founder of Global Growth was convicted of bribery.

May-Jul 2020
Conservatrix announced insufficient buffers to meet future obligations to policy owners and it was unable to restore its capital to the mandatory level within the required timeframe.

Aug 2020
Conservatrix requested support from the Ministry of Finance, which was rejected.

Sep 2020
DNB appointed a trustee to oversee Conservatrix, since it had failed to meet statutory capital requirements.

Dec 2020
Conservatrix was declared bankrupt.

Jul 2022
Acquisition of Conservatrix's insurance portfolio by Waard, Chesnara PLC's Dutch closed book operation.

Key takeaways

Early intervention and decisive actions by regulators are crucial. In this case, among others, the regulator forcibly transferred the shares of Conservatrix to a new owner in 2017. The transfer was accompanied by conditions such as recapitalisation and the imposition of dividend restrictions. These actions were commendable to safeguard the interests of policy owners and to avert further deterioration of the insurer during that period.

This case demonstrates the challenges of providing continuity of coverage at failure for policies with high guaranteed returns. Resolution outcomes will depend on the severity of policy conditions and the level of returns promised to policy owners. Wiling buyers may be absent. Even with the possible transfer of policies to another entity, this may warrant modification to the policy terms, leaving policy owners exposed to potential losses. To begin with, pursuing the risky business strategy of high guaranteed return products which are not backed by sufficient investment returns, opens up a path to potential failure of the insurer with detrimental impact on policy owners.

The resolution approach of continuity of coverage is well suited to the nature of life policies that serve as long term contracts / pension provisions for policy owners. In this case, the regulator pursued this approach via the transfer of Conservatrix's shares to a new owner in 2017. Even at the bankruptcy of Conservatrix in 2020, the regulator continued to focus on arranging for continuity of coverage by advising the bankruptcy trustee to look for an acquirer to take over the policies which were eventually assumed by Waard, Chesnara's Dutch closed book operation.

> ***I considered the request (for financial support) very carefully, but ultimately rejected it ... it is up to DNB to determine which consequences should be attached to this (dealing with a troubled insurer). The system does not provide for use of public funds and is even partly intended to prevent the use of such public funds. In view of this, I could not accept the request of Conservatrix***
>
> Wopke Hoekstra, former Minister of Finance of the Netherlands

An IGS, with sufficient funding and tools, can be a valuable safety net to protect policy owners during the failure of an insurer. The IGS could effectively facilitate the transfer of policies (through funding, guarantees or other means) to a third-party or a bridge institution; or administer a run-off, which will provide continuity of coverage for policy owners. If termination of policy is pursued as the last resort, the IGS would be able to pay the policy owners up to the protection limit.