

## **Conditions Attached to Operations by Way of the Freedom of Establishment in Latvia**

A Member State insurer intending to provide insurance services in Latvia under the freedom of establishment must take account of the following essential provisions required by Latvian legislation:

### **I. Insurance Supervision**

The authority responsible for supervising the insurance business in Latvia is the Financial and Capital Market Commission. Its address is as follows:

Financial and Capital Market Commission  
Kungu iela 1, Rīga, LV-1050 Phone: +371 6777 4800  
Mobile phone: +371 2651 5221 Fax: +371 6722 5755 E-mail: fktk@fktk.lv,  
single.passport@fktk.lv

### **II. Administrative Procedure**

According to the Commercial Law, a branch of a Member State insurer has to be registered with the Latvian Register of Enterprises. The address and contact details of the Enterprise Register: <https://www.ur.gov.lv/en/contacts/>

### **III. Legislative Requirements**

*1. General good rules within the meaning of Article 11(1)(2) of the IDD (stricter regulations and provisions regulating insurance distribution in addition to those set out in the IDD)*

The Insurance Distribution Directive (EU) 2016/97 (IDD) has been implemented into the Insurance and Reinsurance Distribution Law (hereinafter referred to as IRDL).

#### **1.1. Definition (Article 2 (1) point 1 of IDD)**

In accordance with Article 1, Paragraph one, Point 1 of IRDL the insurance distribution — making recommendations, insurance provision, preparation of documents necessary for the conclusion of insurance contract, explanation of insurance contract terms, including the rights and duties under the insurance contract, taking other actions necessary for the conclusion or servicing of insurance contract or the conclusion of mentioned contract, as well as provision of information on one or more insurance services provided, in accordance with the criteria selected by a customer through a website or mobile apps.

#### **1.2. General information provided by the insurance distributor (Article 18 of IDD)**

In accordance with Article 34, Paragraph six, Article 43, Paragraph six of IRDL if there is a dispute between an insurance distributor and a policyholder, a natural person, after entering into the insurance contract, the insurance distributor has a duty to prove compliance with this Article.

### **1.3. Information exemptions and flexibility clause (Article 22 (1) of IDD)**

In accordance with Article 38, Paragraph one of IRDL the information referred to in Articles 18, 19 and 20 of IDD need not be provided when the insurance distributor carries out distribution activities in relation to the insurance of large risks or if it participates in public procurement or procurement of public service providers.

In accordance with Article 38, Paragraph two of IRDL the information referred to in Articles 29 and 30 of IDD need not be provided to a professional client as defined in point (10) of Article 4(1) of Directive 2014/65/EU.

### **1.4. Cross-selling (Article 24 (7) of IDD)**

In accordance with Article 40, Paragraph seven of IRDL the Financial and Capital Market Commission shall be entitled to prohibit the offering of an insurance product together with a product or service other than insurance on an ancillary basis, as part of an insurance package or a contract offered by the insurance distributor where this may adversely affect the interests of the customer.

### **1.5. Assessment of suitability and appropriateness and reporting to customers (Article 30 (3) of IDD)**

In accordance with Article 44, Paragraph six of IRDL an insurance merchant, a branch of foreign insurer or insurance intermediary, when offering an insurance investment product to the customer without making a recommendation, may not obtain information on its knowledge and experience in the investment field, provided that the following conditions are met at the same time:

- 1) the insurance investment product is related to an investment in simple financial instruments in accordance with Article 126.<sup>2</sup> (12), Clause 1 of the Law on the Financial Instruments Market;
- 2) the insurance investment product is distributed at the initiative of the customer or potential customer;
- 3) the customer or potential customer is informed that an insurance merchant, a branch of foreign insurer or insurance intermediary, when offering an insurance investment product, does not assess its appropriateness for the customer and therefore the customer does not benefit from adequate protection. This warning may be provided in a standard form;
- 4) an insurance merchant, a branch of foreign insurer or insurance intermediary shall comply with the provisions of Article 42 of this Law in relation to the prevention of a conflict of interest.

### **1.6. Breaches, and sanctions and other measures (Article 33 (4) of IDD)**

In accordance with Article 65, Paragraph one, Point 7-9 of IRDL the Financial and Capital Market Commission shall be entitled to impose sanctions and supervisory measures:

- 7) an insurance merchant, a branch of foreign insurer or insurance broker that does not comply with the provisions of Article 18 (4) and (5) of this Law;

8) an insurance merchant, a branch of foreign insurer, or insurance or reinsurance intermediary that does not comply with the regulatory provisions regarding the prevention of money laundering and terrorism financing;

9) an insurance distributor that does not comply with the provisions of Article 5(1), Articles 6 and 7, Article 8(1), (2) and(3), Article 9, Article 10(1), Article 13(1), (3) and(4), Articles 14 and 19 the Regulation No 1286/2014.

### **1.7. Reporting of breaches (Article 35 of IDD)**

In accordance with Article 69, Paragraph five of IRDL an insurance distributor and a branch of foreign insurer intermediary, which gives recommendations on a insurance investment product, draws it up or sells it, shall develop an internal procedure, including the procedures by which the employees report to it infringements of Regulation No 1286/2014 in the insurance distributor or branch of foreign insurer intermediary.

### **1.8. Internal Procedures related to the registration of intermediaries**

In accordance with Article 24 of IRDL an insurance merchant:

1) shall develop and approve the procedure for ensuring the fulfilment of the provisions of Article 16 (6) of this Law as well as Article 18 (4), (5) and (6), Article 23 (5) and (6), and ensure compliance with it.

2) shall submit the procedure referred to in paragraph one of this Article to the Commission in writing within 10 days of its approval and shall inform it about any changes to this procedure.

3) shall evaluate compliance with the procedure referred to in paragraph one of this Article as well as compliance with the activities of an insurance merchant or a branch of a foreign insurer at least once a year. An insurance merchant or a branch of a foreign insurer shall be obliged, without delay, to improve the relevant procedure after any substantial changes in its activities.

4) shall determine which structural unit within the management framework will ensure the implementation of the procedure referred to in paragraph one of this Article and shall inform the Commission regarding the responsible employee of that unit.

5) shall ensure registration of all documents related to the fulfilment of the provisions of Article 16 (6) of this Law, as well as Article 18 (4), (5) and (6), Article 23 (5) and (6). The register shall be kept electronically and it shall include texts of the documents and their amendments in order to provide for traceability of all entries and amendments made previously.

## **2. Insurance Legislation**

*1.1. The Insurance Contract Law (available on the official website of the Financial and Capital Market Commission in Latvian: [www.fktk.lv](http://www.fktk.lv))*

The Insurance Contract Law applies to all insurance contracts unless otherwise provided by law, e.g. it does not apply to reinsurance.

## *1.2. Compulsory insurance*

Latvian legislation provides for the following types of compulsory insurance in Latvia:

### Class 2. Sickness

Health insurance for foreigners arriving and staying in the Republic of Latvia

### Class 10. Compulsory Third Party Liability Insurance for Inland Motor Vehicle Owners

### Class 13. General liability

- Liability insurance of the qualified or qualified increased security electronic identification service provider;
- Civil Liability of Professional Patent Attorneys
- Liability insurance of the credit bureau
- Civil Liability Insurance for a Security Guard Merchant
- Civil legal liability of the construction specialist and performer of construction work
- Civil Liability Insurance for commercial activity with explosives and explosive devices
- Civil Liability Insurance for Administrator of Insolvency
- Liability insurance of the Performers of Geodetic Work
- Liability insurance of the performer of land use planning work
- Liability insurance of a cadastral surveyor of land
- Civil legal liability of public event organiser
- Liability insurance of an insurance and reinsurance intermediary
- Liability insurance of an organisation accredited in the field of the measurement of trees or round timber
- Compulsory Civil Liability Insurance of Owners of Motor Vehicles
- Liability insurance of shipowners for maritime claims
- Liability insurance of a trusted certification service provider
- Liability insurance of a sworn bailiff
- Civil Liability Insurance of a Sworn Auditor and a Commercial Company of Sworn Auditors
- Compulsory civil liability insurance for the owner of hydroelectric installations
- Liability insurance of operator of sources of ionising radiation
- Professional indemnity insurance of credit intermediary
- Liability insurance of administrator of credit institution
- Foreigners' health insurance
- Liability insurance of the maintenance service and conformity checking body of electronic devices and equipment for the registration of taxes and other payments
- Liability insurance of the sponsor and investigator
- Liability insurance of the Sworn Notaries
- Liability insurance of the Competent Authorities and Competent Specialists in Labour Protection Issues

### Class 15. Suretyship

Possible customs, excise tax and added-value tax debt suretyship insurance.

## **3. Consumer Protection**

*Consumer Rights Protection Law (available on the official website of the Consumer Rights Protection Centre in English: [www.ptac.gov.lv](http://www.ptac.gov.lv)).*

The Consumer Rights Protection Law applies to all contracts concluded between consumers and service providers (insurers).

It should be particularly noted that pursuant to the Latvian Consumer Rights Protection Law, a consumer is a natural person who expresses a wish to purchase, purchases or might purchase, or use goods or a service for a purpose, which is not related to his or her economic or professional activity.

The Consumer Rights Protection Centre supervises the legality of the use of contract conditions from the point of view of consumer protection. In accordance with Article 26 of this Law, consumers are entitled to submit complaints regarding violations of the requirements of this Law and other regulatory enactments on consumer rights protection, to the Consumer Rights Protection Centre.

#### **4. Data Protection**

*Personal Data Processing Law (available on the official website of the Data State Inspection in English: [www.dvi.gov.lv](http://www.dvi.gov.lv))*

The purpose of Personal Data Processing Law is to create legal preconditions for setting up of a system for the protection of personal data (hereinafter - the data) of a natural person at a national level by providing for the institutions necessary for such purpose, determining the competence and basic principles of operation thereof, as well as regulating operation of data protection officers and provisions of data processing and free movement.

#### **5. Credit Register**

The Credit Register is a national information system managed by the Bank of Latvia. Data on the customer, customer's obligations and violations of such obligations, and data on the customer's guarantor, customer guarantor's obligations and violations of such obligations shall be entered in the Register by the Register participant. The Credit Register participant shall update the Register data, once such data change, except for the periodic data. The Credit Register participant is an economic operator registered in Latvia and entitled to make insurance and equivalent economic operator registered in another country that has opened a branch in Latvia. *(Information about the Credit Register available on the official website of the Bank of Latvia in English: [www.bank.lv](http://www.bank.lv) )*

#### **6. Parafiscal charges**

1) According to Article 22 of the Law on the Financial and Capital Market Commission, activities of the Financial Market Commission are financed from payments of financial and capital market participants made in amounts specified by the Board of the Financial and Capital Market Commission and not exceeding the amounts set by law.

Pursuant to Paragraph 2.1 of the Regulations of the Financial and Capital Market Commission on the Amount of Payments by Financial and Capital Market Participants for Financing the Financial and Capital Market Commission and the Procedures for Submitting Reports for the Year 2019, approved on 20 December 2018 *(available on the official website of the Financial and Capital Market Commission at [www.fktk.lv](http://www.fktk.lv)),* payments of an insurance company and a

branch of a Member State insurer for financing the Financial and Capital Market Commission in 2019 have been specified as follows - payments by the branch from the total sum of the received quarterly insurance premiums:

- a) 0.20 percent of operations related to motor vehicle third party liability compulsory insurance;
- b) 0.20 percent of operations related to endowment life assurance, including unit-linked life insurance contracts;
- c) 0.283 percent of other insurance operations.

Financial and capital market participants shall make the payments specified in Paragraph 2.1 of above Regulations by the 30th of the month following the reporting quarter to IBAN Code LV96 LACB 0000 0000 1185 1 with the Bank of Latvia, Code LACBLV2X, Taxpayer's Registration No. 90001049028. Payments should be made in whole *euro*.

A branch of a Member State insurer shall, by the 30th of the month following the reporting quarter, submit to the Commission a Report on the Calculation of Payments by Insurers for Financing the Financial and Capital Market Commission (Appendix 1 to the Regulations).

2) According to Article 283, Paragraph 1 of the Law on Insurance and Reinsurance, in order to protect the interests of the insured in case of an insurer's bankruptcy, the Fund for the Protection of the Insured has been established in Latvia. Pursuant to Article 287, Paragraph 1, the Fund for the Protection of the Insured is formed of deductions of the insurer in the amount of 0.1 percent of the total amount of gross insurance premiums thereof which have been received from natural persons for the following classes of insurance:

- accident insurance;
- health insurance (insurance against sickness);
- land vehicle (excluding railway rolling stock) insurance;
- property insurance against damage by fire and natural disasters;
- property insurance against other losses;
- liability for transport ownership insurance;
- general liability insurance;
- assistance insurance;
- life assurance, except for insurance related to unit-linked life insurance contract.

Payments should be made in whole *euro* via the settlement account held by the Financial and Capital Market Commission (Taxpayer registration No. 90001049028) with the Bank of Latvia (Code LACBLV2X):

For life assurance: IBAN Code LV18LACB0000000022373;

For other insurance: IBAN Code LV93LACB0000000022381.

According to the Regulations of the Financial and Capital Market Commission on the Procedure for Making Payments into the Fund for the Protection of the Insured dated 24.07.2009, an insurer shall, by the 30th of the first month of each quarter, submit to the Financial and Capital Market Commission a report on the gross premiums received from natural persons in the previous quarter and the payments made into the Fund for the Protection of the Insured. The format of the report and the above regulations are available on the official website of the Financial and Capital Market Commission in English at [www.fktk.lv](http://www.fktk.lv).

The provisions for payments into the Fund for the Protection of the Insured are not binding on foreign insurers operating under the freedom of establishment if the regulatory enactments of the respective states provide for at least identical protection of the insured when operating under the freedom of establishment in foreign states; moreover, the guaranteed insurance compensation in the event of an insurer's default shall not be less than that specified by the Law.

## **7. Taxes**

*Law on Taxes and Fees (available on the official website of the State Revenue Service in English: [www.vid.gov.lv](http://www.vid.gov.lv))*

According to the Law, a foreign insurer has to be registered with the State Revenue Service and is responsible for the payment of taxes according to the Latvian tax legislation.

Latvian tax legislation does not provide for the State tax on premiums collected under insurance contracts.

## **8. Statistical information**

Pursuant to Paragraph 8 of the Regulations on the Preparation of Reports for Insurers and Reinsurers, approved by the Financial and Capital Market Commission on 9 March 2016 (available on the official website of the Financial and Capital Market Commission at [www.fktk.lv](http://www.fktk.lv)), a Quarterly Report of a Branch of a Member State Insurer or Reinsurer shall include:

- 1) Breakdown of the Insurer's or Reinsurer's Individual Balance Sheet Items (Appendix L.07. to the Regulations);
- 2) Report of the Branch of the Member State Insurer on Direct Insurance (Appendix L.01. to the Regulations).

The reports shall be submitted in accordance with the procedures prescribed by the Regulations on the Preparation of Reports for Insurers and Reinsurers of the Financial and Capital Market Commission of 9 March 2016.

According to Article 88 part 2 of the Insurance and Reinsurance Law the branch of a Member State insurer shall ensure that the annual accounts of a Member State insurer are made public not later than seven months after the end of the reporting year. At least the statement that presents the financial position at the end of the reporting period, and the statement on the financial performance for the reporting period, as well as the opinion of the sworn auditor shall be made public in Latvian. The branch of a Member State insurer may post the relevant information on their website or choose another suitable medium or location to release the information.

According to Point 8 of the Regulations on Preparation of Public Quarterly Reports of the Insurers a branch of Member State insurer shall publish the latest publicly available report on the activities and financial ratios of the Member State insurer thereof prepared in accordance with existing rules and regulations of the Member State in which the insurer is established. The branch of Member State insurer shall ensure availability of that report in the state language of the Republic of Latvia. By way of derogation from those requirements, the

branch of Member State insurer shall evaluate relevance of publicly available data and shall publish monthly data on the extent of its activities in the Republic of Latvia, for example, on insurance premiums written and insurance claims paid broken down by the types of insurance.

### ***9. Other Provisions***

Furthermore, the Financial and Capital Market Commission would like to draw your attention to the following general legislation:

- Law on the Compulsory Third Party Liability Insurance for Inland Motor Vehicle Owners (in case a foreign insurer intends to provide services of compulsory third party liability insurance for inland motor vehicle owners);
- The Civil Law;
- The Competition Law;
- The Law on Advertising.

Apart from that, we would like to note that the insurer exercising the freedom of establishment in Latvia has to follow other requirements that have not been referred to above, but are provided for in the Latvian legislation applicable to the branch of a Member State insurance company in Latvia.