

## **Conditions Attached to Operations of Insurance and Reinsurance Intermediaries , Ancillary Insurance Intermediaries by Way of the Freedom of Establishment and Freedom to Provide Services in Latvia**

European Union Member State insurance and reinsurance intermediary, ancillary insurance intermediary intending to provide insurance and reinsurance distribution services in Latvia under the freedom of establishment and the freedom to provide services must take account of the following key provisions required by Latvian legislation:

### **I. Supervision of Insurance and Reinsurance Distribution**

The authority responsible for supervising the insurance and reinsurance distribution 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: +371 777 4800  
Mobile phone: +371 6515221  
Fax: +371 722 5755  
E-mail: fktk@fktk.lv, single.passport@fktk.lv  
Official website: www.fktk.lv

### **II. Legislative Requirements**

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

*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)*

#### **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 intermediary (Article 18 of IDD)**

In accordance with Article 35, Paragraph one of IRDL before entering into the life insurance contract, the insurance intermediary shall provide to the client:

- 1) the following information relating to the life insurance company:
  - a) on the Member State in which the head office of the insurance company is situated and address of the head office,
  - b) the place where one can get information on the solvency and financial standing of the insurance company;

2) the following information relating to obligations:

- a) the amount of the sum insured under the insurance contract and the terms and conditions of the options included therein,
- b) on the validity term of the life insurance contract,
- c) on the terms for the termination of the life insurance contract,
- d) on the time limits and procedures for the payment of insurance premiums,
- e) on the procedure for the calculation and allocation of gratuities (bonuses),
- f) on the procedure for the determination of the repurchase amount and accumulation amount and on the provisions of the guaranteed disbursement thereof,
- g) on the amount of insurance premiums and amount insured separately for each insured risk, as well as on the insurance indemnity or the procedure for the determination thereof for each insured event,
- h) in the unit-tied life insurance contract — on the underlying assets and the procedure for the calculation of the sum insured,
- i) on the procedure for the application of the notice period to the termination of the life insurance contract,
- j) general information about the tax regime applicable to the class of insurance.

In accordance with Article 35, Paragraph two of IRDL if the likely insurance indemnity specified in the offer to enter into a life insurance contract at the end of the term of the insurance contract may be higher than that payable under the insurance contract, the insurance intermediary shall provide the policyholder with an example of the likely insurance indemnity calculation at the end of the term of the insurance contract, based on the calculation of the insurance premium specified in the insurance contract for the purpose of which three different interest rates shall be used. The insurer shall inform the policyholder that the calculation example is only a projection based on theoretical assumptions, and that the policyholder shall not gain the right to claim payments based on this calculation example.

### **1.3. Conflicts of interest and transparency (Article 19 (1) of IDD)**

In accordance with Article 34, Paragraph one, Point 9(a) of IRDL before entering into an insurance contract an insurance agent in respect of insurance contracts, which are proposed or for which a recommendation is made, shall be obliged to inform a customer that he is not entitled to give recommendation on the basis of a comprehensive analysis of the offer.

In accordance with Article 34, Paragraph one, Point 11 of IRDL before entering into an insurance contract an insurance broker shall be obliged to provide the customer with timely information on the assessed insurance offers and the type of remuneration the insurance broker would receive from the respective insurer if the insurance contract were entered into.

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 Section.

### **1.4. 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.

### **1.5. 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.

### **1.6. 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 Section 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 insurance merchant, a branch of foreign insurer or insurance intermediary shall comply with the provisions of Section 42 of this Law in relation to the prevention of a conflict of interest.

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

In accordance with Article 65, Paragraph one, Point 6-9 of IRDL the Financial and Capital Market Commission shall be entitled to impose sanctions and supervisory measures:

- 6) an insurance or reinsurance intermediary or an ancillary insurance intermediary which does not comply with the provisions of Section 1 (1), Clauses 1, 4, 7, 9 and 21 of this Law, Section 4 (3), (4), (5) and (7), Section 8 (1), Clauses 8, 9, 10, 11, 12, 13, 14 and 15 and (6) and Section 64 (1), (2) and (3) of this Law;
- 7) an insurance merchant, a branch of foreign insurer or insurance broker that does not comply with the provisions of Section 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.

### **1.8. 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.

### **2. Other Provisions**

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

- The Insurance Contract Law;
- Law on the Compulsory Third Party Liability Insurance for Inland Motor Vehicle Owners;
- The Civil Law;
- Commercial Law;
- Consumer Rights Protection Law;
- Personal Data Processing Law;
- On Taxes and Duties
- The Competition Law;
- Advertising Law;
- Law on the Prevention of Money Laundering and Terrorism Financing;
- The Financial and Capital Market Commission's Regulations.

Apart from that, we would like to note that an insurance and reinsurance intermediary exercising the freedom of establishment and the freedom to provide services in Latvia has to follow also other requirements that have not been referred to above, but are provided for in Latvian legislation.

The Latvian legal acts are available on the official website [www.likumi.lv](http://www.likumi.lv). The Financial and Capital Market Commission's Regulations are available on the official website of the Financial and Capital Market Commission – [www.fktk.lv](http://www.fktk.lv).

### **III. Administrative Procedure for Branches of Insurance (Reinsurance) Intermediaries**

According to the Commercial Law, a branch of a Member State insurance and reinsurance intermediary 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/>

In accordance with Article 60, Paragraph two, three, four, five, six and seven of IRDL a branch of the insurance or reinsurance broker of a Member State, before commencing its activities in the Republic of Latvia, shall pay to the Commission 250 euro for the financing of its activities.

An insurance broker, a branch of insurance broker of another Member State and a branch of foreign insurance broker shall pay up to 0.7 percent (including) of commissions received during the quarter, but not less than 150 euro and not more than 1000 euro per year, for the financing of the Commission's activities.

The Commission shall issue regulatory provisions regarding the procedures for calculating, performing and reporting the payment referred to in Paragraph three of this Section.

The payment referred to in Paragraph three of this Section shall be performed on a quarterly basis until the thirtieth day of the following month.

In case of a late transfer of the payment referred to in Paragraph three of this Section or incomplete transfer, the late payment fee shall be calculated for each overdue payment day in the amount of 0.05 percent of the outstanding amount.

The payments referred to in this Section shall be paid into the Commission's account with the Bank of Latvia.