

# COUNTRY-BY-COUNTRY ANALYSIS OF NATIONAL GENERAL GOOD RULES

ANNEX III TO THE INSURANCE DISTRIBUTION  
DIRECTIVE: REPORT ANALYSING NATIONAL  
GENERAL GOOD RULES

<https://eiopa.europa.eu/>

PDF	ISBN 978-92-9473-158-6	doi:10.2854/478933	El-01-19-490-EN-N
Print	ISBN 978-92-9473-161-6	doi:10.2854/41779	El-01-19-490-EN-C
HTML	ISBN 978-92-9473-159-3	doi:10.2854/453161	El-01-19-490-EN-Q

Luxembourg: Publications Office of the European Union, 2019

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## NOTE

Historically, there was no obligation under the IMD to ensure “appropriate publication” of IDD-specific general good rules, hence CAs’ websites have typically included a mixture of IDD- and Solvency-II related general good rules and other provisions applicable to informing firms. This has changed with the introduction of Article 11(1), IDD. However, due to the nature of the general good rules which are published on CAs’ websites and were reported to EIOPA by 31 May 2019, some of the examples cited in this country-by-country analysis may not be general good rules as referred to in Article 11(1), but may refer to general good rules according to Solvency II or to other provisions applicable to incoming firms which are not general good rules (e. g. provisions transposing the IDD).

As of 31 May 2019:

1. One EU Member State (Spain) and two EFTA States (Iceland and Norway) had not yet completed the implementation of the IDD. These particular Member States have not yet published general good rules implementing the IDD, but have published existing general good rules implementing the IMD which continue to be applied until they are repealed by general good rules implementing the IDD. These general good rules have been considered in the country-by-country analysis.
2. 20 out of 28 CAs (Austria, Belgium, Bulgaria, Croatia, Czechia, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Portugal, Romania, Slovakia, Sweden) which have implemented the IDD ensure an appropriate publication of the national general good rules, having clearly indicated on their website all the general good rules in the sense of Article 11(1). The general good rules published by these particular Member States have been considered in the country-by-country analysis.
3. EIOPA identified 2 out of 28 CAs (Finland, Netherlands) where further steps are necessary to ensure an appropriate publication of the national general good rules. The general good rules of these particular Member States which are applied in practice have been considered in the country-by-country analysis to the extent to which they are due to be published.
4. In addition, EIOPA identified 6 out of 28 CAs (Cyprus, Germany, Luxembourg, Poland, Slovenia, UK) which were currently in the process of updating their websites to ensure an appropriate publication of the national general good rules before the publication of this report.<sup>1</sup> The general good rules of these particular Member States which are applied in practice have been considered in the country-by-country analysis to the extent to which they are due to be published.

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<sup>1</sup> As of 5 July 2019, Cyprus, Germany, Luxembourg, Poland and Slovenia ensured an appropriate publication of the national general good rules.

# AUSTRIA

Single point of contact responsible for providing information on general good rules:

Federal Ministry for Digital and Economic Affairs

General good rules published (for intermediaries):<sup>2</sup>

[https://www.bmdw.gv.at/Nationale\\_Marktstrategien/versicherungsvermittler/Seiten/Bestimmungen\\_des\\_Österreichischen\\_Rechts\\_für\\_Versicherungsvermittler.aspx](https://www.bmdw.gv.at/Nationale_Marktstrategien/versicherungsvermittler/Seiten/Bestimmungen_des_Österreichischen_Rechts_für_Versicherungsvermittler.aspx)

General good rules published (for undertakings):

<https://www.fma.gv.at/en/insurance/disclosure/supervisory-disclosure/>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- The Austrian law foresees special rules for determining whether the delivery of unsolicited messages advertising an insurance contract is admissible. Section 107 TKG 2003 is partly based on the Directive 2002/58/EC<sup>3,4</sup>.

#### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- Austrian insurance intermediaries principally have to give advice (there are cases exempted according to Article 3(3) of the regulation mentioned in the footnote). In case of brokers or multi tied agents there have to be fulfilled the requirements of Brokers Act, BGBl. Nr. 262/1996.<sup>5</sup>
- According to Article 20(1), subparagraph 1 of the IDD, the insurance distributor must obtain information from the policyholder, which are necessary to specify the customer's demands and needs. "Insurance distributor" means any insurance intermediary, ancillary insurance intermediary or insurance undertaking. In Austria, this obligation also has to be fulfilled by the insurance distributor primarily. In addition, the insurance undertaking is only free of this obligation if the contract is distributed by an authorised third party and the insurance undertaking has no reason to assume that the policyholder is offered contracts that do not correspond to their demands and needs.<sup>6</sup>

<sup>2</sup> The information on the general good rules published is only available in German. Therefore, these general good rules have not been considered in the country-by-country analysis.

<sup>3</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ L 201, 31.7.2002, p. 37.

<sup>4</sup> Section 128(5) VAG 2016 in connection with Section 107 Telecommunications Act 2003 (Telekommunikationsgesetz, TKG 2003)

<sup>5</sup> Draft title: „Verordnung der Bundesministerin für Digitalisierung und Wirtschaftsstandort über Standes- und Ausübungsregeln für Gewerbetreibende, die Tätigkeit der Versicherungsvermittlung ausüben (Standesregeln für Versicherungsvermittlung)“

<sup>6</sup> Section 131(3) VAG 2016

- According to Article 20(1), subparagraph 3 of the IDD, the insurance intermediary or insurance undertaking is responsible for the advice. In Austria, this obligation also has to be fulfilled by the insurance distributor primarily. In addition, the insurance undertaking is only free of this obligation if the contract is distributed by an authorized third party and the insurance undertaking has no reason to assume the third party advises the policyholder not properly.<sup>7</sup>
- Section 135c(3) VAG 2016 foresees a standardised information sheet which contains the information listed in Section 133(2), number 1-9 also for pure life insurance products according to Article 2(17), letter b of the IDD. Information obligations in connection with life insurance products are specified in the Life Insurance Information Requirements Regulation.<sup>8</sup>
- According to Article 20(5) and (6), the information listed in Article 20(8) of the IDD only has to be provided in relation to non-life insurance products. According to Section 133(2), number 1-9 the information listed in Art 20(8) has to be provided in relation to all insurance contracts.<sup>9</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- According to Section 130(4) VAG 2016, the name, the address and the legal form of the insurance undertaking and, where appropriate, of the branch concluding the insurance contract has to be announced irrespective of whether it is a distribution in relation to the insurance of large risks. According to Article 22(1), subparagraph 1 of the IDD, the information referred to in Articles 18, 19 and 20 need not be provided when the insurance distributor carries out distribution activities in relation to the insurance of large risks.<sup>10</sup>
- The national provision contains a compulsory advice except in relation to the insurance of large risks. Only at the express wish of the customer the advice can be omitted.<sup>11</sup>

#### **ARTICLE 23 – INFORMATION CONDITIONS**

- Concerning information after the conclusion of the contract, Section 128a(2) VAG refers to Section 5a(1) VersVG. Section 5a(1) specifies in which way electronic communication can be agreed.<sup>12</sup>
- Section 5a(9) VersVG specifies Article 23(5), letter d by defining how long information has to be reasonably available on the website.<sup>13</sup>

### **ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS**

#### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- According to Article 30(1), the insurance intermediary or undertaking is responsible for providing the advice and undertaking the suitability assessment. According to the national provision of Austria, the insurance undertaking is only free of this obligation if the insurance undertaking has no reason to assume that the third party advises the policyholder not properly.

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7 Section 132(3) VAG 2016

8 Section 135c VAG 2016

9 Section 133(2) VAG 2016

10 Section 130(1), number 1 VAG 2016

11 Section 132(1) and (2) VAG 2016

12 Section 128a(2) VAG 2016 in connection with Section 5a(1) Insurance Contract Act (Versicherungsvertragsgesetz, VersVG)

13 Section 5a(9) Insurance Contract Act (Versicherungsvertragsgesetz, VersVG)

## OTHER THEMES

- › Information obligations: The Austrian law foresees special information obligations for health or accident insurance which is operated in a manner similar to life insurance. Information obligations in connection with health insurance products are specified in the Information Requirements Regulation for Health Insurance.<sup>14</sup>

# BELGIUM

Single point of contact responsible for providing information on general good rules:

The Financial Services and Markets Authority

General good rules published (for intermediaries):

<https://www.fsma.be/en/insurance>

General good rules published (for undertakings):

<https://www.fsma.be/en/node/7139>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- › Insurance distributors restrict their activities to insurance products they (as well as the persons that are responsible for the insurance distribution or in contact with the customers) understand and are able to explain to the clients the essential features of the insurance products they commercialise.<sup>15</sup>

#### ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › Applicable requirements in the case the insurance intermediary informs the customer that it gives its advice on the basis of a fair and personal analysis or that advice is given independently. The intermediary must then assess a sufficiently large number of insurance products available on the market to enable it to make a personal recommendation, in accordance with professional criteria, regarding which insurance contract would be adequate to meet the customer's needs. Those requirements are applicable to all insurance products.<sup>16</sup>

#### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- › The option provided for in Article 22(1) and (2) has been used.<sup>17</sup>

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### ARTICLE 27 AND 28 – CONFLICTS OF INTEREST

- › Extension of the conflict of interest requirements to all insurance products (and not only the investment-based insurance products).<sup>18</sup>

<sup>15</sup> Article 288, §4 of the Law of 4 April 2014

<sup>16</sup> Article 284, §3 of the law of 4 April 2014

<sup>17</sup> Article 280 of the Law of 4 April 2014

<sup>18</sup> Article 283, §8 – §11 of the Law of 4 April 2014



**ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › The obligation to provide information with regard to all costs and related charges is extended to all insurance products (and not only the investment-based insurance products).<sup>19</sup>
- › Option provided for in Article 29(3) of the IDD.<sup>20</sup>

**ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- › Even in the case where no advice is provided, the insurance distributor must perform an appropriateness test.<sup>21</sup>
- › Extension of the requirements regarding client records to all insurance products.<sup>22</sup>

**SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS****ARTICLE 1 AND 2 – SCOPE AND DEFINITIONS**

- › The insurance distributors that collaborate with an exempted ancillary insurance intermediary must ensure that the persons that are responsible for the commercialisation within the intermediary are able to explain to the clients the essential features of the insurance products they commercialise.<sup>23</sup>
- › For an ancillary insurance intermediary to be exempted, the amount of the premium paid for the insurance product must not exceed EUR 200, taxes excluded (instead of EUR 600), calculated on a pro rata annual basis.<sup>24</sup>
- › The definition of insurance-based investment product is being extended to other similar insurance products, such as certain pension products.<sup>25</sup>

**OTHER THEMES**

- › Record keeping: Insurance distributors must keep recordings of their insurance distribution activities.<sup>26</sup>
- › Disclosure between insurance companies and distributor: Insurance companies are under an obligation to provide insurance distributors that distribute their insurance products the information that is necessary to permit compliance with the IDD framework.<sup>27</sup>
- › Liability of the insurance company in case of fault by a tied insurance agent and of the intermediary in case of fault by the under-agent: Insurance companies that work with tied insurance agents assume full and unconditional civil responsibility for any action or omission on the part of the said tied insurance agents where these agents act on their behalf, provided the said action or omission concerns the conduct of business rules referred to in Chapter 5 of this part of the Law or in its implementing provisions.<sup>28</sup>

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<sup>19</sup> Article 283, §6 of the Law of 4 April 2014

<sup>20</sup> Article 295, §3 of the Law of 4 April 2014

<sup>21</sup> Article 296 of the Law of 4 April 2014

<sup>22</sup> Article 290 of the Law of 4 April 2014

<sup>23</sup> Article 258, §2, number 4 of the Law of 4 April 2014

<sup>24</sup> Article 258, §1 of the Law of 4 April 2014

<sup>25</sup> Article 16°/1, subparagraph 2 of the Law of 4 April 2014

<sup>26</sup> Article 291 of the Law of 4 April 2014

<sup>27</sup> Article 292 of the Law of 4 April 2014

<sup>28</sup> Art. 293 of the Law of 4 April 2014

# BULGARIA

Single point of contact responsible for providing information on general good rules:

Financial Supervision Commission

General good rules published (for undertakings and intermediaries):

<https://www.fsc.bg/d.php?id=26065>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- When distributing insurance products, the insurer must identify itself as an insurer and the insurance intermediary must identify itself as an insurance intermediary of the respective type. The obligation under Sentence One shall also be applied in respect of company or advertising boards, inscriptions and materials.

It shall be prohibited to place signs, marks or other indications on the motor vehicle or in a visible position inside the vehicle or other property that directly or indirectly signify the existence of an insurance contract concluded for the same vehicle or for other property.

An insurer or reinsurer may not require, in any form, the placement of signs, marks or other indications under Paragraph 4 as a condition precedent to conclude and/or cause the entry into force of the insurance contract in respect of the relevant motor vehicle or other property and/or to cover one or more risks under the insurance contract. Furthermore, no insurer or reinsurer may contract or include in the general conditions of such insurance the placement of signs, marks or other indications under Paragraph 4, as an obligation of the insured person, the insuring person or the third beneficiary person. The lack of such signs, marks or other indications may not be grounds to exclude one or more insurance risks from the coverage or to modify or terminate the insurance contract, nor may it be linked to any negative legal effects whatsoever concerning the insured person, the insuring person or the third beneficiary person.

The prohibition under Paragraph 4 shall not concern the placement of signs, marks or other indications whose placement is explicitly regulated by a statutory act or signs, marks or other indications which advertise a natural or legal person or such person's business sign or trade mark, product, goods, service, brand or other similar elements and they shall not be linked to the conclusion of the insurance contract when:

1. the person concerned owns the motor vehicle, or has rented or leased the latter on other legal grounds for which it has concluded contract, or
2. the placement implements a (written) advertising contract entered into with a natural or legal person who is the owner, user, renter or lessee of the motor vehicle or other property on which the relevant signs, marks or other indications are placed.<sup>29</sup>

#### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

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<sup>29</sup> Article 288, paragraph (2), (4), (5), (6) of the Code on Insurance

- The relations between a consumer of insurance services, an insurer or a reinsurer, respectively, and an insurance broker shall be specified in a written contract, except for intermediation in relation to third party liability insurance for motorists and accident insurance for public transport vehicle passengers.

The insurance broker shall provide advice prepared based on a fair and personal analysis, where this is assigned by an insurance services consumer. Upon establishing relations with an insurance services consumer, as well as with each new renewal of the assignment of performance of insurance intermediation, the insurance broker shall be obligated to inform them of their right to assign to the broker preparation of advice based on a fair and personal analysis. Obligations under sentences one and two shall also apply to insurance brokers and to other distributors of insurance services from other member states which have no contractual obligation to distribute insurance products exclusively for one or more insurer, who carry out activities in the Republic of Bulgaria under the conditions of the right of establishment or freedom of provision of services, where these distributors conclude insurance contracts with insurance services consumers, whose usual place of residence or establishment is in the Republic of Bulgaria.<sup>30</sup>

## ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

### ARTICLE 27 AND 28 – CONFLICTS OF INTEREST

- The rules under the Code on Insurance includes all classes of insurance and not only insurance-based investment products.<sup>31</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 14 – COMPLAINTS

- The Commission shall establish and maintain an organisation for review of complaints of beneficiaries of insurance services, consumer organisations and other stakeholders against distributors of insurance services and products.<sup>32</sup>

## OTHER THEMES

- Premium payments: Where an insurer, insurance intermediary or an ancillary insurance intermediary receives payment in cash of an insurance premium or instalment, it shall be obligated to issue to the consumer of insurance services a document certifying the receipt of the payment, conformant with the requirements of the Accountancy Act, except in the case of payment of the entire premium or of a first instalment thereof, the receipt of which shall be certified by the insurance contract itself.<sup>33</sup>
- Premium payments: The insurance agent, ancillary insurance intermediary respectively, shall be subject to supervision by the Compliance Department or by the Internal Audit Department of the insurer, for whom they perform insurance intermediation.

An insurance intermediary, ancillary insurance intermediary respectively, which has received payment of a premium or instalment under an insurance policy, regardless of whether such insurance policy was concluded with its intermediation or not, shall be obligated to notify the insurer on that same day of the payment received, its grounds and amount, as well as to transfer such amount to the insurer within a time limit of one month from receiving the payment, and for the compulsory insurance policies under Article 461, items 1 and 2 - within a time limit of up to 5 business days from receiving the payment. The notification shall be made by electronic mail, by means of the electronic system of the insurer or in another manner agreed upon between the insurer and the

<sup>30</sup> Article 301, paragraph (2), (5) of the Code on Insurance

<sup>31</sup> Article 146(5) – (8) and Article 299 of the Code on Insurance

<sup>32</sup> Article 290 of the Code on Insurance

<sup>33</sup> Article 336 (1) of the Code on Insurance

insurance intermediary, ancillary insurance intermediary, respectively.

When an insurance premium or an instalment due under it is paid prior to the expiration of the 15-day time limit, the insurer may not terminate the insurance contract.<sup>34</sup>

- Premium payments: Payment by an insurer to a consumer of insurance services through an insurance intermediary, ancillary insurance intermediary, or through another person shall be permitted only on the basis of an explicit written power of attorney with notary certification of the signatures for the respective insurance claim or payment, in which there shall be a statement that the consumer of insurance services has been notified that he/she has the right to receive the payment personally. When the insurance intermediary, ancillary insurance intermediary respectively, has opted to guarantee the fulfilment of its obligation for transfer of consumer funds by means of a client account, the insurer shall be obligated to make the payment of the funds intended for the consumer of insurance services, into the client account only.

An insurance intermediary, respectively ancillary insurance intermediary, which has received payment according to the procedure of paragraph 1, shall be obligated, within 5 business days to transfer the amount received into a bank account of the consumer of insurance services, unless the intermediary and the consumer have otherwise agreed upon in writing.

When the insurer makes a payment through an insurance intermediary, ancillary insurance intermediary or another person under Paragraph 1, the insurer shall be obligated to notify explicitly and in writing the consumer of insurance services also indicating the amount of the payment made.<sup>35</sup>

- Premium payments: Persons not entered into the register under Article 30, paragraph 1, item 9 or item 12 of the Financial Supervision Commission Act as insurers, insurance intermediaries or ancillary insurance intermediaries may not accept payments of an insurance premium, except in the cases under Article 295, paragraph 1 of the Code on Insurance, or if they have a licence for performing payment services.<sup>36</sup>
- General provisions – insurance agents: An insurance agent may intermediate for one insurer who has obtained a licence to perform insurance operations including classes of Life Insurance, and for one insurer who has obtained a licence to perform insurance operations including classes of Non-life Insurance. This limitation shall not apply where the insurance agent works for insurers which are part of a group.

Upon consent given by the insurers, an insurance agent may perform insurance intermediation for other insurers as well, provided he/she shall perform intermediation in respect to insurances, other than the types of insurances for which he/she has been authorised by the insurers.

When two or more persons, who are related persons or who perform operations in common premises by common means or otherwise from which a justified conclusion may be made that they are acting jointly, perform, each one separately, operation as an insurance broker for different insurers, it shall be assumed that they perform jointly operations as an insurance broker without the registration required by the law, except in the following cases:

1. when all such persons are employees of the same agent,
2. when all such persons are agents and do not violate the restrictions by their operations.

The insurance agent shall be obligated to notify the insurance services consumer for which insurers and what insurance products it is authorised to mediate. The obligation under sentence one shall be complied with for a sufficient period of time before starting an activity of offering insurance products, and in cases of permanent relations with the insurance services consumer – also in case of change in the previously disclosed circumstances.<sup>37</sup>

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<sup>34</sup> Article 337 (2) of the Code on Insurance

<sup>35</sup> Article 338 of the Code on Insurance

<sup>36</sup> Article 335 of the Code on Insurance

<sup>37</sup> Article 315 (1) – (3) of the Code on Insurance

- General provisions – insurance agents: An insurance agent shall be a natural person or a merchant, entered into the register under Article 30, paragraph 1, item 12 of the Financial Supervision Commission Act, who, in return for payment and upon assignment by an insurer, carries out insurance intermediation on behalf and for the account of an insurer.

The insurance agent may collect premiums and effect payments to the insurance services consumers, where it authorised for this by the insurer. In these cases, the insurance agent shall be obligated to notify explicitly the insurance services consumer that it is authorised to collect insurance premiums on behalf and for the account of an insurer.

The relations between an insurer and an insurance agent shall be regulated in a written contract which is contract for insurance agency.<sup>38</sup>

- General provisions – insurance agents: An insurance agent may not work for an insurance broker.

A natural person performing operations as insurance agent shall be a liberal profession.

An insurance agent who is a natural person may not be in employment relations with an insurer.<sup>39</sup>

- Company name: A person who has not been entered into the register under Article 30, Paragraph 1, Item 12 of the Financial Supervision Commission Act may not use in its denomination advertising or other operations words in the Bulgarian language or in a foreign language meaning or related to performance of insurance or reinsurance intermediation. Sentence one shall not be applied to intermediaries performing activity in the Republic of Bulgaria under the conditions of the right of establishment and of the freedom to provide services.<sup>40</sup>

- Entering into the Commission's register: No registration shall be allowed of one and the same person at the same time as:

1.insurance agent and insurance broker;

2.insurance agent and intermediary offering insurance products as supplementary activity;

3.insurance broker and intermediary offering insurance products as supplementary activity.

The Commission shall establish and maintain a system of registration via Internet of insurance intermediaries and ancillary insurance intermediaries, which ensures completion of a standard registration form in an easily accessible manner through Internet. The registration procedure shall be provided through Commission's legal ordinance.<sup>41</sup>

- General rules and exceptions: The insurer shall compose a list of the ancillary insurance intermediaries, offering insurance products as an additional business who are his contractual partners.<sup>42</sup>

- Restrictions on operations of insurance brokers: An insurance broker may not perform operations as an insurance agent.

The restriction shall also apply to members of the management and control bodies of an insurance broker, to all other persons authorised to manage and represent an insurance broker, as well as to its employees directly involved in carrying out insurance or reinsurance intermediation.

The insurance broker may not be a shareholder, a partner or a member of a management or control body of an insurance agent.<sup>43</sup>

38 Article 313 of the Code on Insurance

39 Article 314 of the Code on Insurance

40 Article 298 of the Code on Insurance

41 Article 296 of the Code on Insurance

42 Article 295 paragraph (3) of the Code on Insurance

43 Art. 302 of the Code on Insurance

- Guarantees for the operations of an insurance agent: An insurance agent shall be obligated to maintain a compulsory professional liability insurance, valid on the whole territory of the European Union and the European Economic Area, covering liability for damages, incurred within the territory of a member state in carrying out insurance intermediation, as a result of his/her guilty action or omission to act. The minimum insurance amount of the insurance shall be BGN 2,500,000 per each insured event and BGN 3,700,000 for all insured events for one year, including liability for non-payment to the insurer of the received insurance premium and for non-payment to the insurance service consumer of insurance indemnities or amounts paid by the insurer respectively.

The abovementioned insurance must cover the liability for damages inflicted by action or by omission to act by any person authorised to manage and represent the insurance agent, member of its management or control body or employees of its when or in connection with performing insurance or reinsurance intermediation.

The requirement for opening a client account by the insurance agent shall not apply where the insurer has authorised the agent to operate with its account to which insurance premiums for the insurer, as well as insurance indemnities or moneys for the insurance service consumer, are transferred directly.<sup>44</sup>

- Check-up of the compliance with requirements of an insurance agent: Before applying for registration of an insurance agent in the register, an insurer shall establish if the person meets the requirements.

In case the person has no professional liability insurance, the insurer who has signed a contract therewith, shall incur full responsibility for such person's actions in carrying out insurance intermediation under this contract.

The insurer shall exercise ongoing control over the compliance with the requirements of qualification and good reputation of its insurance agents and their employees.<sup>45</sup>

- Entry into the register of an insurance agent: An insurer shall keep a list of the persons with whom it has concluded insurance agency contracts. Attached to the list shall also be kept the relevant documents on the grounds of which compliance with the requirements was established.

The insurer shall apply to the Commission for registration in the register of the persons it wishes to act as insurance agents for it, and filing an application for registration shall be deemed to certify that a verification was made and that the respective person meets the requirements. The insurance agent shall submit independently an application for entry in the register of the Commission where he/she performs intermediation for an insurer from another member state operating in the Republic of Bulgaria under the conditions of freedom to provide services, enclosing the relevant documents within 14 days from signing of the insurance agency contract.

An insurer shall register each change in the facts and circumstances on the list notifying the Commission thereof. In the cases under Paragraph 2, Sentence Two, notification of change in the facts and circumstances shall be made by the insurance agent.

The obligation under Paragraph 3 shall be discharged within a period of 7 days of gaining knowledge of the relevant fact or circumstance.<sup>46</sup>

- Identification card of an insurance agent: Upon registration of an insurance agent into the register, the insurer shall issue to the former an Identification Card based on a template endorsed by the Deputy Chairperson, which shall contain at least the following data:

1. The name and address of the natural person or the company, legal seat and registered office of the insurance agent who is a sole proprietor;
2. The address of the office or branch office where operations will be performed;
3. The types of insurances the agent may offer and the maximum amount of insurance up to which an insurance agent may conclude such insurances;

<sup>44</sup> Article 316, para. (2), (3) and (7) of the Code on Insurance

<sup>45</sup> Article 318 of the Code on Insurance

<sup>46</sup> Article 319 of the Code on Insurance

4. The names of the persons authorised to manage and represent the insurance agent who is a legal person;
5. The register into which it has been entered and the way to prove such entry.

The insurance agent shall be obligated to post a copy of the Identification Card in a prominent place in each room, in which it shall perform its operations.<sup>47</sup>

- Grounds for deletion of the insurance agent from the register: Following deletion from the register, an insurance agent may not perform insurance intermediation. An insurance agent shall be obligated to return the Identification Card issued.<sup>48</sup>
- Ancillary insurance intermediaries: An ancillary insurance intermediary shall be a natural person or a trader registered in the register under Article 30, paragraph 1, item 12 of the Financial Supervision Commission Act, who, for remuneration and upon assignment by an insurer, pursues insurance distribution on behalf and for the account of an insurer.

A credit institution or an investment firm may not be registered as an ancillary insurance intermediary.

Insurance, respectively reinsurance, agent or an ancillary insurance intermediary registered in another member state may do business in the territory of the Republic of Bulgaria in accordance with the conditions of the right of establishment and of the freedom to provide services. (article 323)<sup>49</sup>

- Information about the insurance intermediary: Sufficient time prior to concluding the insurance contract, the insurer shall be obligated to provide the following information:
  1. the fact that it is an insurer, company name and legal form of organisation;
  2. the name of the member state in which its seat of business is located and the name of the member state where the seat of business of the branch is located, when the insurance contract is concluded through a branch in a member state other than the member state of the seat of business of the insurer;
  3. the registered office in the state of its seat of business, as well as the registered office of the branch, when the insurance contract is concluded through a branch in a member state other than the member state of the seat of business of the insurer;
  4. the procedure for submitting complaints and the internet page on which these are published;
  5. the opportunity for submitting complaints before the Commission and before other state authorities, as well as the forms for extra-judicial hearing of disputes which are available to the insurance service consumer in the Republic of Bulgaria;
  6. the internet address of the report on solvency and financial status of the insurer;
  7. if it provides advice regarding the insurance products distributed by it.

The information under Paragraph 1, Item 2 shall be contained in each documents sent by the insurer to the insurance service consumer. The information under Paragraph 1, Item 3 shall obligatorily be recorded in the insurance contract or in any other document for providing insurance coverage, when obligations for the insurance service consumer arise therefrom.

The name and address or the name and registered office of the representative for settlement of claims of the insurer in the Republic of Bulgaria shall obligatorily be recorded in the contract for the compulsory Third Party Insurance of Motorists, concluded with an insurer, which performs operations in the Republic of Bulgaria under the conditions of the freedom to provide services. When the address at which the representative can be found is different from his/her registered office, the former shall also be recorded in the insurance contract.

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47 Article 320 of the Code on Insurance

48 Article 321, para. (2) of the Code on Insurance

49 Article 321a., 321b. and 323 of the Code on Insurance

When the insurance contract is concluded through an insurance intermediary, all the information above shall be provided by the insurance intermediary.

In case of direct sales, sufficient time prior to the conclusion of an insurance contract, the insurer shall disclose to the insurance services consumer the nature of the remuneration received by its employees in relation to the insurance contract. If the consumer makes payments other than current premiums and scheduled payments under the insurance contract after entering into it, the insurer shall disclose the information under sentence one before every such payment.<sup>50</sup>

- Practices in the distribution of insurance products: An insurance distributor, which offers insurance on the internet, shall be obligated to create a website that shall meet the following requirements:
  1. the name and address of the insurer or of the insurance intermediary and the legal grounds for performing operations on the territory of the Republic of Bulgaria must be disclosed on the initial web page or in another visible and accessible place on the web page;
  2. the entire information must be in Bulgarian;
  3. the consumer information on the web page must meet all the requirements of the Code on Insurance and of the Distance Marketing Of Financial Services Act;
  4. the consumer of insurance services must be able to freely acquaint himself/herself with all the conditions of the contract.<sup>51</sup>
- Practices in the distribution of insurance products: An insurance contract may be concluded remotely in one of the following ways only:
  1. in electronic form, signed by qualified electronic signatures of the parties within the meaning of Regulation (EU) No. 910/2014 and the Electronic Document and Electronic Trust Services Act;
  2. on paper carrier with handwritten signatures of the parties;
  3. through the internet page according to the procedure.

Upon remote conclusion, in the form of an electronic document, of an insurance contract for Third Party Liability Insurance or for Accident Insurance of the passengers in the public transport vehicles according to the procedure, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days from the signing of the contract, to provide to the insuring person the insurance contract reproduced on paper carrier as a transcript signed in the handwriting of the insurer or of the insurance intermediary. In order to exercise his/her right of refusal according to the procedure, the insuring person who is a consumer shall be obligated to return to the insurer the received transcript attesting to the conclusion of the insurance contract.

Upon remote conclusion, in the form of an electronic document, of an insurance contract for Third Party Liability Insurance of the Motorists according to the procedure, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days, to provide to the insuring person the insurance policy reproduced on paper carrier as a transcript signed in the own handwriting of the insurer or of the insurance intermediary and attesting to the existence of an insurance contract, accompanied by a mark and a Green Card Certificate. In order to exercise his/her right of refusal according to the procedure, the insuring person who is a consumer shall be obligated to return to the insurer the received transcript attesting to the existence of an insurance contract, the Green Card Certificate and the respective clipping from the mark.

In the case of remote conclusion of Third Party Liability Insurance of the Motorists through the internet page of an insurer or of an insurance intermediary, the written form shall be considered complied with even without the signature of the insuring person, if the insuring person has paid the insurance premium or respective instalment under it through that same internet page, by credit or debit card issued to the insuring person. In the case of

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50 Article 324 of the Code on Insurance

51 Article 331 of the Code on Insurance



Sentence One, the insurer or the insurance intermediary respectively shall be obligated, within a time limit of 3 business days, to provide to the insuring person the insurance policy on paper carrier, personally signed by the insurer or by the insurance intermediary and accompanied by a mark and a Green Car Certificate. In this case, no signature of the insuring person on the insurance policy shall be required. In order to exercise his/her right of refusal according to the procedure, the insuring person who is a consumer shall be obligated to return to the insurer or to the insurance intermediary the received insurance policy, the Green Card Certificate and the respective clipping from the mark.

In the cases under Paragraph 4, the contract shall be considered concluded from the moment when the insuring person receives, through electronic means, the confirmation of the insurer or of the insurance intermediary for conclusion of the contract. The entry into force of the insurance coverage shall be explicitly agreed upon in the insurance contract but may not be earlier than 00:00 o'clock on the day following the day of conclusion of the contract.

The compulsory Third Party Liability Insurance of Motorists may be concluded remotely by an insurer or by an insurance intermediary, after the latter has received from the consumer of the insurance service a copy of Part One of the certificate of registration of the motor vehicle in relation to which the insurance is concluded.<sup>52</sup>

# CROATIA

Single point of contact responsible for providing information on general good rules:

Croatian Financial Services Supervisory Agency

General good rules published (for undertakings and intermediaries):

<https://www.hanfa.hr/insurance-market/general-good-provisions/>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### **ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- › Implementation of the legal option according to Article 20(5) and (6) of the IDD<sup>53</sup>
- › Implementation of the legal option according to Article 20(7), subparagraph 2 of the IDD<sup>54</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- › Implementation of the legal option according to Article 22(1), subparagraph 2<sup>55</sup>
- › Implementation of the legal option according to Article 22(3)<sup>56</sup>

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › Implementation of the legal option according to Article 29(3), subparagraph 1-2<sup>57</sup>

#### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- › Implementation of the legal option according to Article 30(3)<sup>58</sup>

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53 Envisaged Article 433(13) of the Insurance Act

54 Envisaged Article 433(10) of amended Insurance Act.

55 Envisaged Article 435(2) of amended Insurance Act.

56 Envisaged Article 435(3) of the Insurance Act.

57 Envisaged Article 436f(5) of the Insurance Act.

58 Envisaged Article 436g(6) and (7) of the Insurance Act.

## OTHER THEMES

- › Notification of the PRIIP KID (Key Information Document): PRIIP manufacturer from the Republic of Croatia or the person selling a PRIIP in the Republic of Croatia is obliged to notify to HANFA (Croatian competent authority) of the key information document for PRIIPs marketed in the Republic of Croatia. It doesn't regulate that such obligation is meant to be ex ante notification. Nevertheless, Article 12 (2) of the same Act regulates that HANFA shall (by virtue of Ordinance) prescribe time limits and means of such notification, but so far, such Ordinance hasn't entered in the force.<sup>59</sup>

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<sup>59</sup> Article 12(1) of the Croatian Act on application of REGULATION (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products

## CYPRUS

Single point of contact responsible for providing information on general good rules:

Ministry of Finance

General good rules published (for undertakings and intermediaries):

<http://mof.gov.cy/en/publications/1-insurance-companies-control-service/general-good-requirements/1-general-good-requirements>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### **ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- › Implementation of the legal option according to Article 20(7), subparagraph 2 of the IDD.<sup>60</sup>

##### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- › Implementation of the legal option according to Article 22(1), subparagraph 2 of the IDD.<sup>61</sup>

#### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

##### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › Implementation of the legal option according to Article 29(1), subparagraph 3 of the IDD.<sup>62</sup>

##### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- › Implementation of the legal option according to Article 30(3) of the IDD.<sup>63</sup>

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<sup>60</sup> 394ΣΤ(8) of the Laws on Insurance and Reinsurance Services and Other Related Issues 2016-2019 (Insurance Law)

<sup>61</sup> 394Η of the Laws on Insurance and Reinsurance Services and Other Related Issues 2016-2019 (Insurance Law)

<sup>62</sup> 394ΙΣΤ(3) of the Laws on Insurance and Reinsurance Services and Other Related Issues 2016-2019 (Insurance Law)

<sup>63</sup> 394ΙΖ(6) of the Laws on Insurance and Reinsurance Services and Other Related Issues 2016-2019 (Insurance Law)

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 14 – COMPLAINTS

- Every insurance/reinsurance company and insurance/reinsurance intermediary must have internal procedures which allow the customers and other interested parties to submit complaints against insurance/reinsurance distributors. The complaint should be examined in accordance with fair and transparent procedures and in all cases complainants shall receive replies from the distributors. Non-compliance is subject to an administrative fine by the Superintendent of Insurance in accordance with the relevant provisions of the Law (sections 399-400).<sup>64</sup>

### OTHER THEMES

- Supervisory powers: The provisions of Articles 30-41 of the National Insurance Law L38(I)/2016 state who is the Competent Supervisory Authority and lay down its competencies and its supervisory powers.
- Freedom of Services of insurance distributors: Articles 375 and 376 of the National Insurance Law L38(I)/2016 are distribution related requirements for freedom of services activities including also the requirements of Article 11(1) of Directive 2016/97/EC.
- Freedom of Establishment of insurance distributors: Articles 379-381 of the National Insurance Law L38(I)/2016 are distribution related requirements for freedom of establishment activities including also the requirements of Article 11(1) of Directive 2016/97/EC.
- Criminal offences: the provisions of Articles 395-412 of the National Insurance Law L38(I)/2016 are applicable for both insurance undertakings and insurance distributors and outline the powers and the authority of the Superintendent to impose administrative fines for certain events and/or circumstances of breaches of the Law, which are described therein, as well as the maximum limits of the fines depending on the severity of the breach.

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<sup>64</sup> 394IH of the Laws on Insurance and Reinsurance Services and Other Related Issues 2016-2019 (Insurance Law)

## CZECHIA

Single point of contact responsible for providing information on general good rules:

Czech National Bank

General good rules published (for undertakings and intermediaries):

<https://www.cnb.cz/en/supervision-financial-market/legislation/insurance-and-reinsurance-companies-insurance-intermediaries/>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- The aim of this provision is to prohibit an inherent conflict of interest where it inevitably stems from fiduciary duty to act in the interest of both the IU and the customer.<sup>65</sup>

##### ARTICLE 24 – CROSS SELLING

- The wording is the same as in the IDD only words “as ancillary product” are omitted in order to extend the rule without it being necessary to examine whether it is an ancillary or non-ancillary product. The rule cannot be circumvented irrespective of the fact whether the insurance, goods or product was ancillary.<sup>66</sup>

#### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

##### ARTICLE 29 – INFORMATION TO CUSTOMERS

- Obligatory advice on all IBIPs, voluntary to non-IBIP, but if advice is provided, the same rules as in IBIPs advice apply to the particular case.<sup>67</sup>
- The provision delays the payment of commission to the intermediary so it is not paid all at once, in case of life insurance policies, but spread evenly over the first 60 months. The intention is to diminish the rate of switching life insurance policies and to mitigate miss-selling cases.<sup>68</sup>
- The insurance undertaking or insurance intermediary, in addition to the PRIIPs KID and the information in the IDD, shall provide the customer with a personalised information in standardised form to the very policy he/she is contracting.<sup>69</sup>

<sup>65</sup> Article 76 of Act No 170/2018 Coll. on Insurance and Reinsurance distribution

<sup>66</sup> Article 52(1) and (2) of the Act No 170/2018 Coll. on Insurance and Reinsurance distribution

<sup>67</sup> Article 78 of the Act No 170/2018 Coll. on Insurance and Reinsurance distribution

<sup>68</sup> Article 50 of the Act No 170/2018 Coll. on Insurance and Reinsurance distribution

<sup>69</sup> Annex to the Act on Insurance distribution and Article 90(6) of the Act

## OTHER THEMES

- › Separation of customers' money: The rule is set out in order to separate the customers' money from potential seizure by the creditors of the intermediary. The same approach is applied to home intermediaries and those incoming from another Member state if premium is collected.<sup>70</sup>
- › Calculation of acquisition costs into the surrender value: Rules for calculating the acquisition costs into the surrender value of IBIPs during the first 5 years of validity of such an insurance as being only 1/60 per each month of the validity. The aim is to stimulate insurance undertakings to prevent miss-selling cases by sharing the costs.<sup>71</sup>

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<sup>70</sup> Article 54(6) of the Act No 170/2018 Coll. on Insurance and Reinsurance distribution

<sup>71</sup> Article 81 of the Act No 170/2018 Coll. on Insurance and Reinsurance distribution

## DENMARK

Single point of contact responsible for providing information on general good rules:

Finanstilsynet

General good rules published (for undertakings and intermediaries):

<https://www.dfsa.dk/en/Reporting/Apply-for-authorization/IDD>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- › A company may not contact anyone using electronic mail, an automated call system or fax for direct marketing unless he / she has given his prior consent. The consent must be able to be revoked easily and free of charge.<sup>72</sup>
- › The rule differs from the IDD provision by making a ban on commission for independent insurance intermediaries.<sup>73</sup>

##### ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- › This rule differs from the IDD and obliges insurance companies to inform consumers on their homepage and in advertisements whether they are member of a guarantee scheme. This is an additional information requirement.<sup>74</sup>
- › This rule differs from the IDD and obliges insurance intermediaries to inform consumers on their homepage and in advertisements whether the insurance company is member of a guarantee scheme. This is an additional information requirement.<sup>75</sup>
- › In contrast to the IDD provisions this provision contains an Annual information requirements for non-life insurance undertakings.<sup>76</sup>

##### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › In contrast to the IDD provisions this provision contains rules on the independent intermediaries agreement with a customer and rules on the termination of the agreement.<sup>77</sup>

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<sup>72</sup> § 10 Marketing Practices Act

<sup>73</sup> Lov nr 41 af 22/01/2018 om forsikringsformidling § 16 (the entire paragraph)

<sup>74</sup> Executive order on good business practices § 12.

<sup>75</sup> Executive order on good business practices § 13.

<sup>76</sup> Executive order on good business practices § 24, stk. 1.

<sup>77</sup> Executive order on good business practices § 29.



**ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- › This rule differs from the IDD by requiring written agreement of an insurance contract and also by making rules for the content of the insurance contract.<sup>78</sup>
- › In contrast to the IDD provisions this provision contains requirements to the notifications of non-life insurance contracts before they are renewed.<sup>79</sup>

**OTHER THEMES**

- › Claims: In contrast to the IDD provisions this provision contains rules on how a refusal of a claim is to be given to the consumer.<sup>80</sup>
- › Information to insurance distributors: In contrast to the IDD provisions this provision contains a practical rule where independent insurance intermediary must give necessary information to insurance distributors.<sup>81</sup>
- › Independent intermediaries: In contrast to the IDD provisions this provision contains a practical rule on payments and information when a customer uses an independent intermediary.<sup>82</sup>
- › Independent intermediaries: In contrast to the IDD provisions this provision contains rules on the independent intermediaries power of attorneys from costumers.<sup>83</sup>

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<sup>78</sup> Executive order on good business practices § 18.

<sup>79</sup> Executive order on good business practices § 19.

<sup>80</sup> Executive order on good business practices § 25, stk. 1.

<sup>81</sup> Executive order on good business practices § 25, stk. 1.

<sup>82</sup> Executive order on good business practices § 26-28.

<sup>83</sup> Executive order on good business practices § 30.

## ESTONIA

Single point of contact responsible for providing information on general good rules:

Finantsinspektsioon

General good rules published (for intermediaries):

<https://www.fi.ee/en/insurance/activity-licence-insurers/general-good-providers-cross-border-insurance-mediation-services>

General good rules published (for undertakings):

<https://www.fi.ee/en/insurance/activity-licence-insurers/general-good-providers-cross-border-insurance-services>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › The insurance product information document is to be provided together with information required pursuant to other relevant Union legislative acts or national law.<sup>84</sup>

#### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- › The information referred to in Articles 29 and 30 of this Directive need not be provided to a professional client as defined in point (10) of Article 4(1) of Directive 2014/65/EU (MiFID II).<sup>85, 86</sup>
- › Each time before the entry into an insurance contract and in case of recognisable necessity also before the amendment of an insurance contract which has previously been entered into, an insurance undertaking shall specify, on the basis of information provided by the client, the insurable interest of the client and the client's requirements for the insurance contract, recommend from among the insurance contracts offered by the insurance undertaking an insurance contract which is the best match for the insurable interests and requirements of the client and provide the client with sufficient explanations in accordance with the complexity of the insurance contract and type of the client so that the client would be able to make an informed decision regarding the entry into the insurance contract. The requirement for provision of a recommendation need not be adhered to in case of a unit-linked life insurance contract.<sup>87</sup>

<sup>84</sup> Insurance Activities Act (Kindlustustegevuse seadus) § § 103.2 (6-7); § 185.1 (1); §192 (2) 5.1;(2.1); §198 (2.1); Law of Obligations Act (Võlaõigusseadus) § 428 (24).

<sup>85</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, OJ L 173, 12.6.2014, p. 349.

<sup>86</sup> Insurance Activities Act (Kindlustustegevuse seadus) § 192 (3), § 198 (4), § 222.1 (3), Law of Obligations Act (Võlaõigusseadus) § 428 (5).

<sup>87</sup> Insurance Activities Act (Kindlustustegevuse seadus) § 192 (2) 6-7; §198 (2) 4); § 221.

## ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

### ARTICLE 29 – INFORMATION TO CUSTOMERS

- › The information referred to in this paragraph shall be provided in a comprehensible form in such a manner that customers or potential customers are reasonably able to understand the nature and risks concerning the insurance-based investment product offered and, consequently, to take investment decisions on an informed basis. Member States may allow that information to be provided in a standardised format.<sup>88</sup>
- › The requirement for provision of a recommendation need not be adhered to in case of a unit-linked life insurance contract (Insurance Activities Act § 222 (3)). A unit-linked life insurance contract means a contract, the amount payable under which depends fully or partially, directly or indirectly, on the value of the underlying assets or general investment performance. A unit-linked life insurance contract within the meaning of this Act does not refer to a contract, under which payments are made only in case of death, injury, illness or disability, or a contract related to the management of an occupational pension fund.<sup>89</sup>
- › Mandatory for all insurance brokers.<sup>90</sup>

### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- › Use of Member State option according to Article 30(3) of the IDD.<sup>91</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 3 – REGISTRATION REQUIREMENTS

- › Insurance agents (included all agents who act as ancillary insurance intermediaries and agents who are named in Art 1 (3) of the IDD acts under responsibility of an insurance undertaking. An insurance agent shall be entered in the list of intermediaries by an insurance undertaking whom the agent represents.<sup>92</sup>

### ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS

- › The opportunity to acquire the knowledge in the field of insurance shall be ensured for insurance agents by an insurance undertaking whose insurance contracts are mediated by these persons.<sup>93</sup>
- › Insurance or reinsurance distributor is allowed to check the good repute of its employees and, where appropriate, of its insurance intermediaries.<sup>94</sup>

88 Insurance Activities Act (Kindlustustegevuse seadus) § 192 (2) 3); § 198 (2) 8); Law of Obligations Act (Võlaõigusseadus) § 428 (2) 4)

89 Insurance Activities Act (Kindlustustegevuse seadus) § 221.1; § 222

90 Insurance Activities Act (Kindlustustegevuse seadus) § 192 (1) 2); (2) 5); § 192 (2.2)

91 Insurance Activities Act (Kindlustustegevuse seadus) §222.1

92 Insurance Activities Act (Kindlustustegevuse seadus) § 179 (4), § 195 (1-4)

93 Insurance Activities Act (Kindlustustegevuse seadus) § 103.1 § 105 (2) 10); § 175 (3); § 178 (1; 3-5); § 186 (2) 16); § 197 (1; 7); §224 (1) 4.1)

94 Insurance Activities Act (Kindlustustegevuse seadus) § 106 (1), (2.1); § 191 (1-3); § 195 (2); § 197 (1; 3; 4; 6)

# FINLAND

Single point of contact responsible for providing information on general good rules:

Financial Supervisory Authority

General good rules published (for intermediaries):

[https://www.finanssivalvonta.fi/en/regulation/FIN-FSA-regulations/insurance-operations/EEA\\_insurance\\_intermediaries/](https://www.finanssivalvonta.fi/en/regulation/FIN-FSA-regulations/insurance-operations/EEA_insurance_intermediaries/)

General good rules published (for undertakings):

[https://www.finanssivalvonta.fi/en/regulation/FIN-FSA-regulations/insurance-operations/EEA\\_insurance\\_companies/](https://www.finanssivalvonta.fi/en/regulation/FIN-FSA-regulations/insurance-operations/EEA_insurance_companies/)

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › Finland used the national option and requires the IPID to be given together with other statutory information.<sup>95</sup>

#### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- › Finland used the national option in article 22(1).<sup>96</sup>
- › Finland used the national option in article 22(3). Brokers are still allowed to receive any commission or fee only from their clients.<sup>97</sup>

#### ARTICLE 24 – CROSS-SELLING

- › Finland used the national option in article 24(7).<sup>98</sup>

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### ARTICLE 29 – INFORMATION TO CUSTOMERS

- › Finland used the national option in article 22(3). Brokers are still allowed to receive any commission or fee only from their clients.<sup>99</sup>

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95 Government Degree 294/2018, 4 § 3

96 Insurance Contracts Act 5 d § 2 and Act on Insurance Distribution 54 §

97 Act on Insurance Distribution 57 § 1

98 Act on Insurance Distribution 40 § 1

99 Act on Insurance Distribution 57 § 1

## OTHER THEMES

- › Ex-ante notification of the PRIIP KID: Legislation requires the ex ante notification of the key information document by the PRIIP manufacturer or the person selling a PRIIP to the competent authority for PRIIPs marketed in that Member State.<sup>100</sup>

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<sup>100</sup> Act on the Financial Supervisory Authority (878/2008), section 37 c.

## FRANCE

Single point of contact responsible for providing information on general good rules:

French Prudential Supervision and Resolution Authority

General good rules published (for undertakings and intermediaries):

<https://acpr.banque-france.fr/en/authorisation/insurance-sector-procedures/administrative-regime/european-passport>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- Any correspondence and advertisement issued by an insurance intermediary acting in that capacity shall mention the intermediary's name or corporate name, business address and registration number. When this correspondence or advertisement is related to an insurance contract, it shall indicate the insurance company's corporate name as well.<sup>101</sup>

##### ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY

- Insurance intermediaries or ancillary insurance intermediaries are not permitted to pass on the remuneration received for distribution activity to other persons who are not registered as insurance intermediaries or ancillary insurance intermediaries. However, persons whose activity is only to connect the distributor and the potential policyholder are not considered as insurance intermediaries or ancillary insurance intermediaries but can receive a commission for that mere connection. Insurance intermediaries who are not under a contractual obligation to conduct insurance distribution business exclusively with one or more insurance undertakings, inform the potential policyholder of his commissions' amount and of any remuneration received from an insurance company. This obligation only applies when the premium amount is higher than EUR 20,000.<sup>102</sup>
- Insurance intermediaries who are not under a contractual obligation to conduct insurance distribution business exclusively with one or more insurance undertakings should give to the potential policyholder the name(s) of insurance company (or companies) with whom they realised more than 33% of the annual revenue past year.<sup>103</sup>

##### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- The distributor shall offer a contract which is consistent with potential policyholder's demands and needs, and have to specify in writing the reasons for this proposal.<sup>104</sup>

<sup>101</sup> Non-harmonized regulatory provisions of single Chapter, Title 2, Book 5 of the French Insurance Code.

<sup>102</sup> Non-harmonized regulatory provisions of Chapter 1, Title 1, Book 5 of the French Insurance Code.

<sup>103</sup> Non-harmonized regulatory provisions of single Chapter, Title 2, Book 5 of the French Insurance Code.

<sup>104</sup> Non-harmonized legislative provisions of Section 3, Chapter 1, Title 2, Book 5 of the French Insurance Code.

**ARTICLE 25 – PRODUCT OVERSIGHT AND GOVERNANCE REQUIREMENTS**

- Insurance intermediaries who distribute IBIP shall draw up agreements with the insurance undertakings with which they work. These agreements shall determine, inter alia:
  - The conditions under which the insurance intermediary shall be required to submit all promotional documents to the insurance undertaking, prior to their distribution, to enable the insurer to verify their compliance with the insurance contract ;
  - The conditions under which the insurance undertaking shall make available to the insurance intermediary the information required to assess all the features of the insurance contract.<sup>105</sup>

**ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS****ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- When it comes to the distribution of IBIP, the insurance undertaking or insurance intermediary shall offer a contract which is consistent with and appropriate to potential policyholder’s demands and needs, and have to specify concrete reasons for this proposal. This assessment of the appropriateness is based not only on the knowledge and experience of that customer but also on the customer’s investment objectives and financial situation.<sup>106</sup>

**SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS****ARTICLE 2 – DEFINITIONS**

- The French insurance code provides that employer or principal shall be legally liable for damage caused by the fault, carelessness or negligence of his employees or agents acting in said capacity.<sup>107</sup>
- The open-ended contract entered into force between insurance firms and their insurance intermediary may always be terminated by decision of one of the contracting parties. The termination of the contract may give rise to damages unless the parties have agreed otherwise.<sup>108</sup>
- In the French law, additional requirements related to the distribution of IBIPs also apply to some life insurance contracts recognised as having the primary purpose of providing the customer with an income in retirement.<sup>109</sup>

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<sup>105</sup> Non harmonized legislative provision of section 2, chapter 2, title 3, Book 1 of French Insurance Code

<sup>106</sup> Non-harmonized legislative provisions of Section 3, Chapter 2, Title 2, Book 5 of the French Insurance Code.

<sup>107</sup> Non-harmonized legislative provisions of section 1, Chapter 1, Title 1, Book 5 of the French insurance code.

<sup>108</sup> Non-harmonized legislative provisions of single Chapter, Title 4, Book 5 of the French Insurance Code.

<sup>109</sup> Non harmonized legislative provisions of section 1, Chapter 2, Title 2, Book 5 of the French Insurance Code.

**ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- The potential themes of the continuing professional training required by IDD are defined by the French regulation. It foresees the list of skills which may be covered by the continuing training required by IDD. This set of skills includes in particular: general abilities to deal with insurance distribution tasks and rules; knowledge specific to the products sold and to their French legal environment (IBIP, insurance of persons, property insurance); knowledge specific to some distribution modes (canvassing, remote selling). This requirement does not apply for ancillary insurance intermediaries.<sup>110</sup>
- Persons who are not insured but who made payments to an insurance intermediary or ancillary insurance intermediary registered and which are covered by an apparent undertaking by a insurance company shall be guaranteed by said company when the public liability insurance of the broker that received said payments cannot be brought into play.<sup>111</sup>

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<sup>110</sup> Non-harmonized regulatory provisions of subsection 2, Chapter 2 , Title 1, Book 5 of the French Insurance Code.

<sup>111</sup> Non-harmonized legislative provisions of single Chapter, Title 3, Book 5 of the French Insurance Code.



# GERMANY

Single point of contact responsible for providing information on general good rules:

Federal Financial Supervisory Authority

General good rules published (for undertakings and intermediaries):

[https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Merkblatt/VA/mb\\_vorschriften\\_allgemeininteresse\\_idd\\_va.html](https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Merkblatt/VA/mb_vorschriften_allgemeininteresse_idd_va.html)

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- Exercise of Member State option foreseen under Article 20(7), subparagraph 2.
- Detailed information requirements for life insurers.<sup>112</sup>

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- Implementation of the legal option according to Article 30(3) of the IDD.<sup>113</sup>

#### OTHER THEMES

- Wider scope of revocation right in case of a group insurance for a payment protection insurance; the single member of the group insurance contract has the rights of a policy holder.<sup>114</sup>
- The provision aims to prevent the customer to conclude an insurance contract because he/she was offered a special allowance. Allowances paid by insurers to the insurance intermediary cannot be passed to the customer.<sup>115</sup>
- As soon as an insurance intermediary (advisor) informs the insurance undertaking that he or she has provided the policyholder with an insurance that includes in the premium a benefit for the insurance mediation (gross rate), the insurance undertaking is obliged to transfer an equivalent of the benefit to the policyholder without delay by reducing the premium.<sup>116</sup>
- Germany regards all articles of the Verordnung über Informationspflichten bei Versicherungsverträgen (VVG-Info-VO) as general good rules. VVG-Info-VO is a regulation for detailed information requirements for all kind of insurance contracts.

<sup>112</sup> § 4 Abs. 2 VVG Info-VO

<sup>113</sup> § 7c Abs. 3 VVG

<sup>114</sup> § 7d VVG, §7a Abs. 5 VVG

<sup>115</sup> § 48b VAG

<sup>116</sup> § 48c VAG

## GREECE

Single point of contact responsible for providing information on general good rules:

Bank of Greece

General good rules published (for undertakings and intermediaries):

<https://www.bankofgreece.gr/Pages/en/deia/generalgood.aspx>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- Insurance and reinsurance distributors shall explain the terms and conditions of the contract they are recommending, advise customers of their rights and obligations and ensure that the information supplied to customers is timely, complete, correct, sufficient and relevant.<sup>117</sup>
- An insurance intermediary may not authorise any third parties to collect any premiums without the insurance undertaking's written consent.<sup>118</sup>
- In the event that an undertaking authorises and instructs any insurance intermediary to collect premiums on its behalf from customers, and where the collection of premiums cannot be evidenced by other equivalent means (such as a bank deposit or postal payment slip), the insurance intermediary shall provide the customer with:
  - a) either the official receipt issued by the insurance undertaking for the premiums received; or
  - b) a signed receipt issued by the insurance intermediary, indicating the date of issuance of the receipt and of collection of the premiums, the full tax and professional registration details of the person collecting the premiums, the name of the insurance undertaking on behalf of which collection is made, the customer's full identification details, the amount of the premiums paid by the customer, as well as a short description of the insurance coverage in respect of which the premiums have been paid.

All of the aforementioned receipts shall be issued in three counterparts, of which one shall be delivered to the customer, the second shall be delivered to the insurance undertaking and the third shall be kept in record by the insurance intermediary. This record may also be kept in electronic form.<sup>119</sup>

##### ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- If an insurance broker receives a fee from the customer, a written contract between them shall include the tax registration number of the insurance broker, the tax registration number of the customer, the time and way of

<sup>117</sup> Article 27 para 3, 4 and 5 of Law 4583/2018

<sup>118</sup> Article 28 para 5 of Law 4583/2018

<sup>119</sup> Article 28 para 4 of Law 4583/2018

payment of the fee and the exact amount of the fee or, if this is not possible, the basis and method of calculation of the fee. The broker shall deliver to the customer the contract prior to the conclusion of an insurance contract.<sup>120</sup>

- Insurance distributors shall post up, at a visible point in the office of their employees carrying out insurance or reinsurance distribution activities, a notice with the names of these employees, stating that these employees have the required qualifications for intermediation in insurance contracts, including, as appropriate, whether they are allowed to offer investment-based insurance contracts.<sup>121</sup>
- The insurance undertaking shall provide an insurance application form free of charge to the distributors of its products. Prior to the conclusion of the insurance contract, distributors shall complete the application form on the basis of the data provided by the customer, have the customer sign it, and deliver the original to the insurance undertaking that assumes the risk and the copy to the customer. The application form, as well as the insurance contract issued subsequently, shall, in addition to the data required under Article 1(2) of Law 2496/1997 (Government Gazette A87), also contain the following information, as appropriate:
  - (a) the name, tax registration number and special registration number of the insurance agent, insurance broker or ancillary insurance intermediary that contacted directly the customer for the distribution of the insurance contract;
  - (b) the information referred to in subpara. (a) above concerning the insurance agent, insurance broker or ancillary insurance intermediary that has a contract with the insurance undertaking, if different from the one referred to in subpara. (a) above; and
  - (c) the information referred to in subpara. (a) above concerning the insurance coordinator.<sup>122</sup>

#### **ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY**

- The capacity of insurance agent, insurance coordinator and insurance and reinsurance broker shall be incompatible with that of general manager or manager or representative of a domestic or foreign insurance or reinsurance undertaking. The capacity of employee of an insurance or reinsurance undertaking shall be incompatible with that of insurance agent or insurance and reinsurance broker [...].<sup>123</sup>

#### **ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- Without prejudice to Article 32 below, when the risk is situated in Greece or the Member State of the commitment is Greece or the policyholder and/or the insurance beneficiary is a resident of Greece, the provision of advice by a distributor to a customer under Articles 30 and 40 below shall be compulsory in the distribution of insurance products of all classes.<sup>124</sup>

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<sup>120</sup> Article 5 para 4 & art. 30 of Law 4583/2018

<sup>121</sup> Article 27 para 6 of Law 4583/2018

<sup>122</sup> Article 28 para 3 of Law 4583/2018

<sup>123</sup> Article 19 para 4 of Law 4583/2018

<sup>124</sup> Article 27 para 2 of Law 4583/2018

## OTHER THEMES

- Monitoring of distributors: [...] If between an insurance undertaking and a customer there are more than one intermediaries, who cooperate in the promotion of the insurance product, that of the cooperating intermediaries who has a contract with the insurance undertaking shall obtain the insurance undertaking's approval for the distribution of its products through this collaboration and, as appropriate, for the authorisation referred to in Article 28(5) below, before any insurance contract is entered into [...].<sup>125</sup>
- Complaints: The insurance intermediary shall have a complaints management function which enables complaints to be investigated in good faith, by collecting and processing all relevant data and information. Insurance intermediaries shall observe a time limit of no more than fifty (50) calendar days from the date of submission of the complaint for sending reasoned responses in writing to complainants.<sup>126</sup>

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<sup>125</sup> Article 5 para 7 second subparagraph of Law 4583/2018

<sup>126</sup> Bank of Greece Executive Committee Act No 89/2016

# HUNGARY

Single point of contact responsible for providing information on general good rules:

Magyar Nemzeti Bank (the Central Bank of Hungary)

General good rules published (for undertakings and intermediaries):

<https://www.mnb.hu/letoltes/general-good-guide.pdf>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- Rules applicable to the use of the “principal guarantee” and “minimum guaranteed yield” terms.<sup>127</sup>
- Rules applicable to the use of the “principal protection” and “yield protection” terms.<sup>128</sup>
- Additional Provisions: This act regulates basic requirements and certain restrictions of commercial advertising activities (advertising prohibitions and restrictions, Proceedings in connection with infringements of the provisions).<sup>129</sup>
- The Act stipulates the requirements towards volume and payment frequency of the commission of the life insurances with saving elements (IBIPs).<sup>130</sup>

#### ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- The Act requires insurance undertakings to provide additional information to clients, and the Act also expects that some content of the disclosed information shall be provided in a manner that is noticeable (highlighted).<sup>131</sup>
- Additional requirement in terms of information to the client during the term of the contract: the insurance company shall supply information with respect to any changes in the data provided prior to the conclusion of the contract any time when the contract is amended or renewed, except if an insurance intermediary is involved in the conclusion of the insurance contract or in connection with reinsurance contracts and insurance contracts covering large exposures.<sup>132</sup>

<sup>127</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 125

<sup>128</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 126

<sup>129</sup> Act XLVIII of 2008 on the Basic Requirements and Certain Restrictions of Commercial Advertising Activities, Sections 1-6 (General provisions), Sections 7-11 (General advertising prohibitions and restrictions), Section 23 (Vested responsibilities), Sections 24-26/A (Proceedings in connection with infringements of the provisions of the Act)

<sup>130</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Section 377

<sup>131</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 152(1) b), c) and e), Bit. Section 152(2); Bit. Section 153(2a), (5)-(6); MNB Decree No. 55/2015 (XII.22.) on the calculation and publishing the Total Cost Indicator (TCI)

<sup>132</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 152(5)

- Additional requirements: The insurance company have to obtain a statement from the client, on what information have been received by the client in connection with the insurance policy in question prior to concluding the contract.<sup>133</sup>
- The Act requires insurance intermediary to provide additional information to clients.<sup>134</sup>

#### **ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- These provisions of the Act stipulate general requirements for insurance product information documents, and an obligation that the insurance product information shall be provided prior to the conclusion of an insurance contract, together with the general information to the prospective policyholder, and in accordance with the aforementioned general requirements.<sup>135</sup>

#### **ARTICLE 21 – INFORMATION PROVIDED BY ANCILLARY INSURANCE INTERMEDIARIES**

- Ancillary insurance intermediaries are obliged to provide additional information besides the information provided according to IDD.<sup>136</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- These provisions of the Act state that the information referred to in Articles 29 and 30 of IDD need not be provided to a professional client.<sup>137</sup>
- In the Act stricter provisions regarding certain precontractual information elements for insurance intermediaries were maintained. New, stricter requirements were not posed, only the previously applicable ones were kept.<sup>138</sup>
- This provision of the Act stipulates the requirement for mandatory advice in case of IBIP product sale.<sup>139</sup>

### **ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS**

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- The Act stipulates that referred information shall be provided in a comprehensible form, in such a manner that customers or potential customers are reasonably able to understand the nature and risks concerning the insurance-based investment product offered and, consequently, to take investment decisions on an informed basis. It is also allowed to provide that information in a standardised format.<sup>140</sup>
- This provision of the Act stipulates the requirement for mandatory advice in case of IBIP product sale.<sup>141</sup>

<sup>133</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 155 (1)

<sup>134</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 378(1) f), i), k)-n)

<sup>135</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 158/B(8), Section 378(6)

<sup>136</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 378(2), Bit. Section 378(5)

<sup>137</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 166/F, Bit. Section. 378 (7)

<sup>138</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 378(1); Act on MNB, Art. 140(3), Act on MNB, Art. 140(4)

<sup>139</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 166/B

<sup>140</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 166/D(1), Bit. Section 158/B(1), Bit. Section 378(6)

<sup>141</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 166/B

- › Minister of Finances is authorized to decree the detailed rules relating to the form and the content requirements regarding the information to be supplied to clients in connection with unit-linked life insurance policies. Currently a bill has been drafted to amend the Decree.<sup>142</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 14 – COMPLAINTS

- › The Act and the referred regulations contain detailed rules on complaint handling of institutes, including (e.g.) deadlines for the response, rules on the quality and content of response. In addition, the referred regulations contain the mandatory information (content) required in the complaint, as well as the rules on recording the complaints and the minimum requirements of policy on complaint handling.<sup>143</sup>

### OTHER THEMES

- › Unfair commercial practices: This act regulates the cases of prohibition of unfair commercial practices.<sup>144</sup>
- › Electronic commerce and information society services: This act regulates the electronic commerce and on information society services.<sup>145</sup>
- › Distance marketing of financial sector contracts: This act regulates distance marketing of financial sector contracts.<sup>146</sup>
- › Minimum content requirements of an insurance contract: The Act makes rules for the minimum content requirements of an insurance contract.<sup>147</sup>
- › Mandatory content of an insurance contract: The Act regulates the mandatory content of an insurance contract to allow the amendment of the contract in order to bring the relevant terms in line with the conditions for claiming said tax relief or tax credit.<sup>148</sup>
- › Mandatory content of an insurance contract: The Act regulates the mandatory content of an insurance contract to prevent requirements to provide documents which could not reasonably be considered relevant as to whether the claim was valid, in case a consumer wishes to claim on an insurance policy.<sup>149</sup>

<sup>142</sup> MF Decree No. 33/2002., Bit. Section 166/D(2)-(3) and Bit. Section 378(7), MF Decree No. 33/2002. (XI.16.)

<sup>143</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Act on MNB, Bit 159. (2)-(7); §, 382. §, (2)-(6); 437/2016 (XII.16.) Gov. Decree No. 437/2016. (XII.16.) Section 1-3, MNB Decree No. 46/2018 (XII.17.) Section 1-9

<sup>144</sup> Act XLVII of 2008 on the Prohibition of Unfair Business to Consumer Commercial Practices, Sections 1-2, general provisions, Sections 3-8, prohibition of unfair commercial practices, Section 9, liability for violation of the prohibition of unfair commercial practices

<sup>145</sup> Act CVIII of 2001 on Electronic Commerce and on Information Society Services

<sup>146</sup> Act XXV of 2005 on Distance Marketing of Financial Sector Contracts, Section 1 (Scope), Sections 3-5 (Information for consumers), Sections 6-8/A (Cancellation right)

<sup>147</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. 121. §; MNB Decree No. 54/2015. (XII.22) on the maximum technical interest rate

<sup>148</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 122/A (Subsequent amendments of insurance contracts)

<sup>149</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 124

- Mandatory content of an insurance contract: The Act regulates the mandatory content of an insurance contract relating to life insurance policies with savings element.<sup>150</sup>
- Reporting obligations: Insurance companies have a reporting obligation towards MNB related to unit-linked asset funds.<sup>151</sup>
- Employer of ancillary insurance intermediaries: The provisions strictly limit the scope of the ancillary insurance intermediary's employer and designate the ancillary insurance intermediary's employer as liable for the activity of the ancillary insurance intermediary.<sup>152</sup>

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<sup>150</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. 124/A. (Specific provisions relating to life insurance policies with savings element).

<sup>151</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 270.

<sup>152</sup> Act LXXXVIII of 2014 on the Business of Insurance (Bit.), Bit. Section 373 /A.



## ICELAND

Single point of contact responsible for providing information on general good rules:

Financial Supervisory Authority

General good rules published (for undertakings and intermediaries):

<https://en.fme.is/published-material/publications/>

### General remarks

Iceland has not yet implemented the IDD. Therefore, Iceland has yet to publish general good rules implementing the IDD. However, Iceland has existing general good rules implementing the IMD which will be changed, depending on the outcome of the national legislative procedure. These general good rules are quoted in the following.

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

- Rules on proper and sound business practices.<sup>153</sup>
- Guidelines on the operational practises of insurance sales representatives, insurance brokers, insurance agents, and insurance companies and on the conduct of insurance sales agents (3/2007).<sup>154</sup>

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<sup>153</sup> Paragraph 4, Article 10 of the Act on Insurance Activity 100/2016.

<sup>154</sup> Paragraph 2, Article 8 of the Act on Official Supervision of Financial Operations.

## IRELAND

Single point of contact responsible for providing information on general good rules:

Central Bank of Ireland

General good rules published (for undertakings and intermediaries):

<https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/insurance-reinsurance/solvency-ii/requirements-and-guidance/general-good-rules.pdf?sfvrsn=5>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- The Fitness and Probity Regime applies to persons who perform certain senior management roles or specific functions, which are set out in the Regulation. The Fitness and Probity Standards 2014 provide that a regulated entity must not assign controlled functions (CFs) to persons who cannot demonstrate compliance with the fitness and probity standards.

The Regulations do not limit the definition of CF to the performance of functions in a regulated financial service provider authorised, licensed or registered by the Central Bank. Part 3 applies to the performance of CFs in the State irrespective of whether the CF is performed by a regulated financial service provider authorised, registered or licensed by the Central Bank or by another EEA competent authority.<sup>155</sup>

- These provisions set out the rules and procedures that must be followed by regulated entities when advertising their products.<sup>156</sup>
- These provisions set out the rules and procedures that must be followed by regulated entities when advertising their products.<sup>157</sup>
- These provisions set out the rules and procedures that must be followed by regulated entities when advertising their products.<sup>158</sup>
- These provisions set out the rules and procedures that must be followed by regulated entities when advertising their products.<sup>159</sup>
- These provisions set out the rules and procedures that must be followed by regulated entities when advertising their products.<sup>160</sup>

<sup>155</sup> The Central Bank Reform Act 2010 Fitness and Probity Part 3, Chapter 2, Controlled Functions.

<sup>156</sup> Consumer Protection Code 2012 Chapter 9, Advertising Provisions 9.1 to 9.9

<sup>157</sup> Consumer Protection Code 2012 Chapter 9, Advertising Provisions 9.11 to 9.18

<sup>158</sup> Consumer Protection Code 2012 Chapter 9, Advertising Provisions 9.32 to 9.35

<sup>159</sup> Consumer Protection Code 2012 Chapter 9, Advertising Provisions 9.36 to 9.38

<sup>160</sup> Consumer Protection Code 2012 Chapter 9, Advertising Provisions 9.39 to 9.52

**ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING**

- › The Consumer Protection Code provides that a regulated entity must draw up its terms of business and provide a copy to the customer prior to providing the first service. The information to be contained in the terms of business includes similar information requirements as outlined in Article 18 of IDD and additional information about the regulated entity.

The entity that is arranging the insurance contract, rather than the manufacturer of the insurance product must provide the terms of business. Insurance distributors operating on a cross border basis that deal with consumers must provide terms of business to the consumer before providing its first service to that consumer.<sup>161</sup>

**ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY**

- › The Code provides that all regulated entities must have a written conflict of interest policy in place to identify and manage conflicts of interest and disclosure to customers in the event that the conflicts of interest cannot be avoided. The Code also provides for further specific conflicts of interest rules for specific situations including remuneration arrangements, suitability requirements, Chinese walls, gifts and rewards and soft commissions. These rules apply to distributors of insurance products other than insurance-based investment products (IBIPs).<sup>162</sup>
- › These provisions relate to information that must be provided to consumers by the regulated entity including the manner in which it should be provided, when it should be provided and what items should be included e.g., disclosures, remuneration information, fees etc. These requirements do not apply to distributors of IBIPs.<sup>163</sup>

**ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- › The Consumer Protection Code applies knowing your customer and suitability assessment requirements in relation to all products other than IBIPs<sup>164</sup>
- › The Regulations require a renewal notification to be provided at least 15 days before a non-life insurance policy is due for renewal. In the case of motor insurance, certain specified information must be provided, including whether the policy is comprehensive, third party, fire and theft, or third party only, cost of optional cover, fees and charges, and a certificate of no claims discount awarded.

Stricter rules will be introduced in November 2019, which stipulate that a renewal notification must be provided at least 20 days before renewal. Furthermore, additional information on the breakdown of premium will be required for both new business and renewal business. Insurers will also be required to provide last year's premium to consumers on their renewal notice.<sup>165</sup>

- › This provision requires regulated entities to provide each consumer with the terms and conditions attaching to a product or service. It also prescribes the manner in which this information must be presented and when it should be supplied.<sup>166</sup>

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<sup>161</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.12 to 4.14

<sup>162</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provisions 3.28, 3.29, 3.30, 3.31, 3.33 to 3.36

<sup>163</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.58 to 4.61 (information about remuneration)

<sup>164</sup> Consumer Protection Code 2012 Chapter 5, Knowing the consumer and suitability

<sup>165</sup> S.I. No. 74/2007 - Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007 5(1), 6(1) and 6(2)

<sup>166</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provision 4.22

- › Member State Discretion (exercised) on the provision of the IPID together with other information.<sup>167</sup>

#### **ARTICLE 21 – INFORMATION PROVIDED BY ANCILLARY INSURANCE INTERMEDIARIES**

- › Ancillary intermediaries are required to comply with the same national requirements on conflicts of interest, provision of information (terms of business) and knowing your customer and suitability for non-life products as other insurance distributors.<sup>168</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- › Member State Discretion (exercised): Additional conflict of interest and information requirements contained in the Consumer Protection Code 2012 apply to the distribution of insurance products other than IBIPs.<sup>169</sup>

#### **ARTICLE 24 – CROSS-SELLING**

- › Member State Discretion (exercised): The Consumer Protection Code provides more specific rules on cross selling including specific rules on bundling and contingent selling.<sup>170</sup>

### **ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS**

#### **ARTICLE 27 – PREVENTION OF CONFLICTS OF INTEREST**

- › The requirements as set out in these provisions will be retained for all products except for IBIPs.<sup>171</sup>
- › The requirements as set out in these provisions will be retained for all products except for IBIPs.<sup>172</sup>

#### **ARTICLE 28 – CONFLICTS OF INTEREST**

- › The requirements as set out in these provisions will be retained for all products except for IBIPs.<sup>173</sup>

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › The Life Assurance (Provision of Information) Regulations 2001 (the Life Regulations) provide for the provision of a pre-contractual disclosure document to prospective clients in advance of buying life assurance products, including insurance-based investment products. This pre-contractual disclosure document must be personalised to the particular circumstances of the prospective policyholder. It should be noted that this document is required in addition to the generic key information document that is required under the PRIIPs Regulation.<sup>174</sup>
- › The Life Assurance (Provision of Information) Regulations 2001 (the Life Regulations) provide for the provision of a pre-contractual disclosure document to prospective clients in advance of buying life assurance products, including

<sup>167</sup> S.I. No. 229/2018 - European Union (Insurance Distribution) Regulations 2018 Regulations 34(8)

<sup>168</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provisions 3.28, 3.29, 3.33 to 3.36 Chapter 4, Provision of Information Provisions 4.12 to 4.14

<sup>169</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provisions 3.28, 3.29, 3.33 to 3.36 Chapter 4, Provision of Information Provisions 4.12 to 4.14

<sup>170</sup> Consumer Protection Code 2012 Chapter 3, General requirements, Provisions 3.20 to 3.23 (bundling and contingent selling)

<sup>171</sup> Consumer Protection Code 2012 Chapter 3, General requirements, Provision 3.28, 3.29, 3.33 to 3.36

<sup>172</sup> Consumer Protection Code 2012 Chapter 3, General requirements, Provision 3.31

<sup>173</sup> Consumer Protection Code 2012 Chapter 3, General requirements, Provisions 3.28, 3.29, 3.33 to 3.36

<sup>174</sup> S.I. No. 15/2001 - Life Assurance (Provision of Information) Regulations, 2001, Regulations 6 and 10

insurance-based investment products. This pre-contractual disclosure document must be personalised to the particular circumstances of the prospective policyholder. It should be noted that this document is required in addition to the generic key information document that is required under the PRIIPs Regulation.<sup>175</sup>

- Member State Discretion (exercised) These Regulations refer to the information which must be provided to customers by insurance intermediaries or insurance undertakings who are distributing IBIPs stating that this information can be provided in a standardised format.<sup>176</sup>
- Member State Discretion (exercised): 40(1) Insurance distributors providing advice in relation to insurance-based investment products on an independent basis shall return to customers or offset against fees to be paid by customers, any fees, commissions, or non-monetary benefits paid or provided by any third party or person acting on behalf of a third party in relation to the services provided to that customer as soon as reasonably possible after receipt.
 

40(2) Insurance distributors shall formulate and implement a policy to ensure that any fees, commission or non-monetary benefits paid or provided by any third party, or a person acting on behalf of a third party, in relation to the provision of independent advice are allocated and transferred to each individual customer.<sup>177</sup>
- The Code sets out the criteria for the use of the term ‘independent’ by regulated entities.<sup>178</sup>
- 39(6): Where an insurance intermediary provides advice on an insurance-based investment product and informs a customer that such advice is provided on an independent basis, the intermediary shall assess a sufficient range of insurance products available on the market which shall be sufficiently diverse with regard to their type and product

#### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- The Consumer Protection Code applies knowing your customer and suitability assessment requirements in relation to all products other than IBIPs.<sup>179</sup>
- These provisions set out additional information that must be provided by a regulated entity, e.g., where a material change to its terms of business occurs, information that must be provided to consumers when using a vehicle in another Member State, notification procedures where there are increases in charges and information on penalty charges.<sup>180</sup>

### **SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS**

#### **ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- The Fitness and Probity Regime applies to persons who perform certain senior management roles or specific functions, which are set out in the Regulation. The Fitness and Probity Standards 2014 provide that a regulated entity must not assign controlled functions (CFs) to persons who cannot demonstrate compliance with the fitness and probity standards.

The Regulations do not limit the definition of CF to the performance of functions in a regulated financial service provider authorised, licensed or registered by the Central Bank. Part 3 applies to the performance of CFs in the State irrespective of whether the CF is performed by a regulated financial service provider authorised, registered

<sup>175</sup> S.I. No. 15/2001 - Life Assurance (Provision of Information) Regulations, 2001, Regulations 7 and 8

<sup>176</sup> S.I. No. 229/2018 - European Union (Insurance Distribution) Regulations 2018 Regulations 41(6)

<sup>177</sup> S.I. No. 229/2018 - European Union (Insurance Distribution) Regulations 2018, Commissions, fees and non-monetary benefits paid in respect of independent advice Regulation 40(1) and (2)

<sup>178</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.16 and 4.17

<sup>179</sup> Consumer Protection Code 2012 Chapter 5, Knowing the consumer and suitability

<sup>180</sup> Consumer Protection Code 2012 Chapter 6, Post-Sale Information, Provisions 6.1, 6.2, 6.13, 6.14, 6.15, 6.16, 6.18, 6.19

or licensed by the Central Bank or by another EEA competent authority.<sup>181</sup>

#### ARTICLE 14 – COMPLAINTS

- The Code provides for detailed complaints handling and a requirement to record and analyse complaints. Specific timelines for responding to complaints and information requirements are specified.

Insurance distributors who are authorised in other Member States are expected to adhere to the national complaint handling procedures provided for in the Consumer Protection Code, when dealing with complaints related to products or services provided to Irish customers on a cross-border basis.<sup>182</sup>

- providers to ensure that the customer's objectives can be suitably met and shall not be limited to insurance products issued or provided by entities having close links with the intermediary.<sup>183</sup>

#### OTHER THEMES

- This provision sets out the entities that may be paid a fee, commission or other remuneration in respect of the provision of regulated activities.<sup>184</sup>
- The Consumer Protection Codes provisions 4.30-4.40 require very specific information to be disclosed to consumers when quoting for insurance business and prior to the conclusion of the insurance contract.<sup>185</sup>
- These provisions concern communication with the consumer via telephone.<sup>186</sup>
- There are no provisions relating to the regulatory disclosure statement in the IDD. These provisions prescribe the format, position and use of the disclosure statement.<sup>187</sup>
- 3.1: Where a regulated entity has identified that a personal consumer is a vulnerable consumer, the regulated entity must ensure that the vulnerable consumer is provided with such reasonable arrangements and/or assistance that may be necessary to facilitate him or her in his or her dealings with the regulated entity.<sup>188</sup>
- 3.2: A regulated entity must ensure that the name of a product or service is not misleading in terms of the benefits that the product or service can deliver to a consumer.<sup>189</sup>
- 3.5: A regulated entity that is in direct receipt of a payment from or on behalf of a consumer for a financial product or service must provide that consumer with a receipt. This receipt must include the following information: a) the name and address of the regulated entity; b) the name of the consumer who provided the payment, or on whose behalf the payment is provided; c) the value of the payment received and the date on which it was received; d) the purpose of the payment; and e) in the case of an insurance intermediary, that the acceptance by the insurance

<sup>181</sup> The Central Bank Reform Act 2010 Fitness and Probity Part 3, Chapter 2, Controlled Functions.

<sup>182</sup> Consumer Protection Code 2012 Chapter 10, Errors and Complaints Resolution Provisions 10.7 to 10.12

<sup>183</sup> SI 229 of 2018 (European Union) Insurance Distribution Regulations Regulation 39(6)

<sup>184</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.25 (remuneration)

<sup>185</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.30 to 4.40

<sup>186</sup> Consumer Protection Code 2012 Chapter 3, General requirements Provisions 3.40, 3.41, 3.42, 3.43, 3.44, 3.45 (telephone contact)

<sup>187</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.4, 4.7, 4.8, 4.9, 4.10, 4.11 (Regulatory Disclosure Statement)

<sup>188</sup> Consumer Protection Code 2012 Chapter 3, General requirements Provision 3.1 (vulnerable consumers)

<sup>189</sup> Consumer Protection Code 2012 Chapter 3, General requirements Provision 3.2 (Product or service description)

intermediary of a completed insurance proposal does not itself constitute the effecting of a policy of insurance, where relevant.<sup>190</sup>

- 3.8: A regulated entity must not, in any communication or agreement with a consumer (except where permitted by applicable legislation), exclude or restrict, or seek to exclude or restrict: a) any legal liability or duty of care to a consumer which it has under applicable law or under this Code; b) any other duty to act with skill, care and diligence which is owed to a consumer in connection with the provision to that consumer of financial services; c) any liability owed to a consumer for failure to exercise the degree of skill, care and diligence that may reasonably be expected of it in the provision of a financial service.<sup>191</sup>
- 3.10: Where a regulated entity intends to amend or alter the range of services it provides, it must give notice to affected consumers at least one month in advance of the amendment being introduced.<sup>192</sup>
- 3.11: Where a regulated entity intends to cease operating, merge with another, or to transfer all or part of its regulated activities to another regulated entity it must: a) notify the Central Bank immediately; b) provide at least two months' notice to affected consumers to enable them to make alternative arrangements; c) ensure all outstanding business is properly completed prior to the transfer, merger or cessation of operations or, alternatively in the case of a transfer or merger, inform the consumer of how continuity of service will be provided following the transfer or merger; and d) in the case of a merger or transfer of regulated activities, inform the consumer that their details are being transferred to the other regulated entity, if that is the case.<sup>193</sup>
- 4.1: A regulated entity must ensure that all information it provides to a consumer is clear, accurate, up to date, of presentation must not disguise, diminish or obscure important information.  
4.2: A regulated entity must supply information to a consumer on a timely basis. In doing so, the regulated entity must have regard to the following: a) the urgency of the situation; and b) the time necessary for the consumer to absorb and react to the information provided.<sup>194</sup>
- These provisions set out the timeframes and procedures that regulated entities must follow when issuing rebates to consumers.<sup>195</sup>
- An insurance intermediary who assists a consumer in making a claim must on receipt of the completed claims documentation, transmit such documentation to the relevant regulated entity within one business day.<sup>196</sup>
- These provisions set out the procedures that must be followed by a regulated entity when handling or processing claims.<sup>197</sup>
- An insurance intermediary who assists a consumer in making a claim must on receipt of the completed claims documentation, transmit such documentation to the relevant regulated entity within one business day.<sup>198</sup>
- These provisions set out the procedures that must be followed by a regulated entity when handling or processing claims.<sup>199</sup>

<sup>190</sup> Consumer Protection Code 2012 Chapter 3, General requirements Provision 3.5 (receipts)

<sup>191</sup> Consumer Protection Code 2012 Chapter 3, General requirements Provision 3.8 (duty of care)

<sup>192</sup> Consumer Protection Code 2012 Chapter 3, General requirements, Provision 3.10 (notice to consumers)

<sup>193</sup> Consumer Protection Code 2012 Provision 3.11 (notification of changes to business)

<sup>194</sup> Consumer Protection Code 2012 Chapter 4, Provision of Information Provisions 4.1 and 4.2

<sup>195</sup> Consumer Protection Code 2012, Chapter 7, Rebates and Claims Processing Provisions 7.1 and 7.2

<sup>196</sup> Consumer Protection Code 2012, Chapter 7, Rebates and Claims Processing Provision 7.3 to 7.5

<sup>197</sup> Consumer Protection Code 2012, Chapter 7, Rebates and Claims Processing Provisions 7.6 and 7.7

<sup>198</sup> Consumer Protection Code 2012, Chapter 7, Rebates and Claims Processing Provision 7.8

<sup>199</sup> Consumer Protection Code 2012, Chapter 7, Rebates and Claims Processing Provision 7.9 to 7.21

- These provisions set out the records and compliance procedures that apply to all regulated entities. This includes what information should be recorded, how long this information is to be retained and details on complaints analysis.<sup>200</sup>
- The Regulations referred to are the Central Bank Act 1942 (Section 32D) Regulations 2013. The government gave the power to raise such a levy to the Bank Commission under the Central Bank Reform Act, 2010.<sup>201</sup>
- In relation to Class 10 (Motor Vehicle Liability), the Insurer must in accordance with the Non-Life Directives and Solvency II Directive provisions on motor insurance: § appoint a claims representative in Ireland; § become a member and participate in the financing of the Motor Insurers' Bureau of Ireland and of the Guarantee Fund; and § sign the Declined Cases Agreement and Declined Cases Supplemental Agreement. The Motor Insurers' Bureau of Ireland (MIBI) is a non-profit-making organisation registered in Ireland. The company was established in 1955 by the then Government and those companies underwriting motor insurance in Ireland. The first MIBI Agreement was signed in 1955 with the most recent Agreement signed in 2009 between the Minister for Transport and MIBI As Compensation Body, which is provided for under EU Motor Insurance Directive 2000/26/EC, MIBI investigates claims made by Irish residents involved in a road traffic accident, which has occurred in another EU Member State. All companies underwriting motor insurance in Ireland must be members of MIBI, as provided for under Section 78 Road Traffic Act, 1961 and fund MIBI by means of payment of an annual levy contribution.<sup>202</sup>
- A regulated entity must ensure that all instructions from or on behalf of a consumer are processed properly.<sup>203</sup>
- Where a regulated entity deals with a person who is acting for a consumer under a power of attorney, the regulated entity must: a) obtain a certified copy of the power of attorney; b) ensure that the power of attorney allows the person to act on the consumer's behalf; and c) operate within the limitations set out in the power of attorney.<sup>204</sup>
- A regulated entity must ensure that all warning statements required by this Code are prominent i.e. they must be in a box, in bold type and of a font size that is at least equal to the predominant font size used throughout the document or advertisement.<sup>205</sup>
- Where a regulated entity offers payment protection insurance in conjunction with a loan, the regulated entity must: a) exclude the payment protection premium from the initial repayment estimate of the loan advised to the consumer and advise the consumer of the amount of the premium separately; and b) use separate application forms for the payment protection insurance and for the loan.<sup>206</sup>
- These Provisions set out the rules and procedures that must be followed by regulated entities when conducting personal visits to consumers.<sup>207</sup>
- A regulated entity must ensure that, where it communicates with a consumer using electronic media, it has in place appropriate arrangements to ensure the security of information received from the consumer and the secure transmission of information to the consumer.<sup>208</sup>

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<sup>200</sup> Consumer Protection Code 2012, Chapter 11, Records and Compliance Provisions 11.1 to 11.10

<sup>201</sup> Central Bank Act 1942 (Section 32D) Regulations 2013

<sup>202</sup> EU Motor Insurance Directive 2000/26/EC, Articles 5 and 6 Section 78 Road Traffic Act, 1961, Provisions relating to Motor Insurers' Bureau of Ireland. 78.

<sup>203</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.3

<sup>204</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.7

<sup>205</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.9

<sup>206</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.24 (payment protection insurance)

<sup>207</sup> Consumer Protection Code 2012 Chapter 3, General Requirements Provision 3.37 to 3.39 (personal visits and contact with consumers)

<sup>208</sup> Consumer Protection Code 2012 Chapter 4, Provision of information Provision 4.3



- These Provisions set out the rules and procedures for the effective handling of errors which affect consumers.<sup>209</sup>
- This Chapter sets out General Principles that regulated entities must comply with in all their dealings with customers.<sup>210</sup>

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<sup>209</sup> Consumer Protection Code 2012 Chapter 10, Error and complaints resolution Provisions 10.1 to 10.6

<sup>210</sup> Consumer Protection Code 2012 Chapter 2, provisions 2.1 to 2.11

## ITALY

Single point of contact responsible for providing information on general good rules:

IVASS – Istituto per la Vigilanza sulle Assicurazioni (Institute for the Supervision of Insurance)

General good rules published in 2 separate lists (one for undertakings and one for intermediaries):

<https://www.ivass.it/normativa/nazionale/norme-int-gen/index.html?com.dotmarketing.htmlpage.language=3>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- Advertising of insurance undertakings' products shall be carried out in compliance with the principles of fairness of information and with the content of the information documents and contractual terms of the relevant products. The same principles shall be respected when advertising is carried out by intermediaries autonomously.<sup>211</sup>
- The Italian regulation implementing IDD provides general rules of conduct to be observed in the exercise of distribution business and in particular when proposing insurance contracts and in the management of the contractual relationship (among the others, rules on admitted means of payment of insurance premiums from the policyholder).<sup>212</sup>

#### ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY

- The national regulation implementing IDD on information to be provided to the policyholder with regard to remuneration received for the distributed contracts is applicable without prejudice to the following special rules - already in force before IDD - concerning the remuneration's disclosure for payment protection insurance – PPI and for motor liability insurance and liability for crafts:<sup>213</sup>
  - a) disclosure obligation for banks, credit institutions and financial intermediaries on the remuneration received and on the amount of the remuneration paid by the insurance undertaking, in terms both absolute and percentage of the total amount, in case of sale of insurance contracts linked to the provision of real estate loans and to credit agreements for consumers;<sup>214</sup>
  - b) as regards remuneration for the distribution of motor liability insurance and liability for craft, the intermediaries must provide the policyholder with the information on the level of commissions received by the undertaking in relation to the insurance contract (and not only on the nature of the remuneration).<sup>215</sup> Information on the level of commissions shall also regard any differences in relation to the categories of vehicles and craft insured and

<sup>211</sup> Article 182, par.1, 2 and 3 of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>212</sup> Article 54 of IVASS Regulation n. 40 of 2 August 2018

<sup>213</sup> Article 57 of IVASS Regulation n. 40 of 2 August 2018

<sup>214</sup> Art. 28, par. 3 bis of the Law decree n. 1 of 24 January 2012, converted by law n. 27 of 24 March 2012

<sup>215</sup> Article 131, par. 2, 2-bis and 2-ter of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

the various types of contracts.<sup>216</sup>

- The provisions enlarge the scope of the conflicts of interest rules envisaged for IBIPs by IDD to each insurance product (exercise of the option stated by art. 22, par. 2, sub-par. 1).<sup>217</sup> Furthermore, it is prohibited for distributors to directly or indirectly become - even through business or group relations, including own relations or relations of the companies of the group - at the same time, beneficiary or lien-holder of insurance benefits and distributor of the relevant individual or collective contract.<sup>218</sup>

#### **ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- Based on EU Regulation n. 2017/1469 and n. 1286/2014 non-life insurance products and PRIIPS shall be introduced to the policyholder with a standard and short document that contain the main aspect of the product<sup>219</sup>. However, according to EU regulation, life insurance product other than IBIPs shall not have such document. Therefore, the Italian Insurance Code states that the distributor of life insurance products other than IBIPs shall deliver to the policyholder a short document – drawn up by the manufacturer - that contain the main aspects of IPID.<sup>220</sup> Please note that while the obligation to deliver this document is stated for all the distributors, the obligation to draw it up, is stated for manufacturers only (insurance undertakings and intermediaries “manufacturer de facto”).
- Furthermore, the national rule states the provision of the IPID together with other information, under option envisaged by Art. 20, par. 7, subparagraph 2 of IDD.<sup>221</sup>
- The Italian regulation requires the consistency between the contracts proposed by distributors and the policyholder/insured person's insurance demands and needs, stating also the obligation to collect information that are useful to this aim. The refusal to provide one or more pieces of the information must be written down in a statement, to be enclosed to the proposal or to the policy, and signed by the policyholder and by the distributor, containing a specific warning about the fact that this refusal shall undermine the possibility to select the contract tailored to the demands and needs of the policyholder.<sup>222</sup>
- The documentation on which the personalised recommendation was based, duly signed by the policyholder, shall be recorded and kept by the distributors.<sup>223</sup>

### **SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS**

#### **ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- The national provision implementing Art. 10, par. 8 of IDD, requires to insurance undertakings to have in place policies approved by the administrative body, based on which they adopt internal procedures aimed at guaranteeing:
  - compliance with professional and organisational requirements, including good repute requirements, applicable to distribution activities that are carried out directly and through distribution networks;

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<sup>216</sup> Article 9 of ISVAP Regulation n. 23 of 9 May 2008

<sup>217</sup> Article 119 -bis, par. 3, 6, 7 and 8, of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>218</sup> Article 55 of IVASS Regulation n. 40 of 2 August 2018

<sup>219</sup> Article 185 of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>220</sup> Article 185-ter of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>221</sup> Article 120, par. 3, of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>222</sup> Article 58 of IVASS Regulation n. 40 of 2 August 2018

<sup>223</sup> Article 59 of IVASS Regulation n. 40 of 2 August 2018

- the correct taking up and management of risks within the distribution activity, the observance of conduct rules, also in the case of distance selling, and the transparency of the operations, in terms of consumer protection.
- It is also stated that, on an annual basis, the undertaking shall prepare a report to be submitted for approval to the administrative body and to be sent to IVASS, describing: i) the monitoring activities carried out in order to verify the correct implementation of the adopted policies and procedures and related outcomes; ii) any critical issue identified and the measures adopted or deemed necessary; iii) the solutions proposed for amending policies and procedures<sup>224</sup>. The specific contents as well as the methods and deadlines for submitting the report is currently under definition by IVASS Order.

#### ARTICLE 14 – COMPLAINTS

- The Regulation lays down the procedure for submitting complaints to IVASS, undertakings and intermediaries and the relevant handling procedures. In particular, insurance undertakings and intermediaries must have internal procedures for complaints-handling, including deadlines for the response and recording of complaints, based on the fair treatment of insured persons, policyholders, beneficiaries and injured parties, which aims to ensure the proper and timely handling of complaints. The procedure of complaints handling applies also to SEE intermediaries included in the Enclosed List (art. 10-terdecies), with the exclusions stated by art. 4, par. 2.<sup>225</sup>

#### OTHER THEMES

- The rule includes all the information to be provided to policyholders before they are bound by a distance proposal or contract. All such information shall allow the customer to understand who is selling the contract and the main information on the insurance cover proposed.<sup>226</sup>
- Requirements for the distribution of insurance products by banking and financial intermediaries (registered under section D of the Register of insurance, reinsurance and ancillary insurance intermediaries), who may market exclusively the insurance products containing standard covers or terms that may be freely chosen by the policyholder and cannot be modified by the subject who markets them.<sup>227</sup>
- Before underwriting a compulsory insurance contract against civil liability in respect of the use of motor vehicles and craft, intermediaries shall be required to inform the customer in a proper, transparent and comprehensive way, of the premiums offered by all the insurance undertakings they represent in relation to the basic contract envisaged by article 22 of Decree-Law n. 179 of 18 October 2012, converted after amendments by Law n. 221 of 17 December 2012, and subsequent modifications.<sup>228</sup>
- The Italian Law requires the prior notification to CONSOB of the KID by the PRIIPs manufacturer.<sup>229</sup>
- Furthermore, the consolidated law on financial mediation states specific rules for the distribution of IBIPs by banking and financial intermediaries and other subjects of banking/financial sector entitled to distribute IBIPs.<sup>230</sup>

<sup>224</sup> Article 46 of IVASS Regulation n. 40 of 2 August 2018

<sup>225</sup> ISVAP Regulation n. 24 of 19 May 2008

<sup>226</sup> Article 121 of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance and Article 73 of IVASS Regulation n. 40 of 2 August 2018

<sup>227</sup> Article 119, par. 2 of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance and Article 47 of IVASS Regulation n. 40 of 2 August 2018

<sup>228</sup> Article 132 -bis of the legislative decree no. 209 of 7 September 2005, Code of Private Insurance

<sup>229</sup> Art. 4-decies of Legislative decree No. 58 of 24 February 1998 - Consolidated Law on Finance

<sup>230</sup> Art. 25-ter of Legislative decree No. 58 of 24 February 1998 - Consolidated Law on Finance l13

- Notification procedure implementing IDD is required to SEE intermediaries for the pursuit of mediation business in Italy under the right of establishment or the freedom to provide services.<sup>231</sup>
- The pursuit of the activities listed under par. 2 and 3 of Art. 3 in the territory of the Italian Republic is subject to the notification procedure referred to under art. 116-quater and 116-quinquies of Insurance Code. Therefore, the provisions of Part III of IVASS Regulation No. 40/2018 (pursuit of distribution activities and rules of conduct) published on IVASS website in the list of general good provisions shall apply the above mentioned activities.<sup>232</sup>
- For the pursuit of distribution business outside their premises, intermediaries may use the services of staff for whom they have previously submitted application to IVASS for the registration in the Italian Register. For this purpose they are required to verify that all the registration requirements envisaged in articles 22 and 23 of IVASS Regulation n. 40/2018 are fulfilled by their staff and to inform IVASS in case of future termination of the relationship with these registered employees/collaborators.<sup>233</sup> Similarly, for the pursuit of distribution business inside their premises, intermediaries may use the services of staff for whom they have previously ascertained that they fulfil good repute requirements and that they have knowledge and professional skills adequate to the activity pursued and to the contracts mediated, acquired by attending professional training courses.<sup>234</sup> As a general principle, insurance undertakings and insurance intermediaries shall impart the professional training and updating with reference to all operators subjected to IVASS supervision through which they pursue insurance distribution. The provision pursues the general good of ensuring adequate professional standards through the provision of training and updating requirements for intermediaries subjected to IVASS supervision (for example, intermediaries having their residence in Italy and therefore registered in Section E of RUI as collaborators of UE intermediaries listed in the Enclosed List), regardless of the Member State of residence/head office of the insurance intermediary/undertaking for which these collaborators/employees pursue insurance distribution. Therefore, the above mentioned provisions apply to EEA intermediaries already entitled to operate in Italy according to the notification procedure stated by IDD only in case they pursue insurance distribution in Italy through collaborators/employees registered in the Italian Register and therefore subjected to IVASS supervision. In the cases mentioned above, the professional training and updating to be provided to the operators mentioned by Art. 86 has to comply with the principles and criteria of Part IV of IVASS Regulation No. 40/2018.<sup>235</sup>
- All intermediaries working in Italy shall have a certified electronic mail address and an electronic signature.<sup>236</sup> The provision is aimed at ensuring the pursuing of supervisory powers by IVASS and the proper management of the Register of insurance, reinsurance and ancillary insurance intermediaries (RUI) and of the Enclosed List of EEA intermediaries licensed to pursue business in Italy. Therefore, EEA intermediaries already entitled to pursue business in Italy according to the IDD notification procedure, are required to have a certified electronic mail address and an electronic signature only for the purpose to submit application to IVASS for the registration in the Italian Register of their Italian collaborators/employees.
- Consistently with IDD, the Italian Law regulates measures applicable by IVASS against intermediaries in case of breaches of obligations when exercising the FOS and FOE and in case of pursuit of insurance, reinsurance or ancillary insurance mediation in the in the territory of the Italian Republic by intermediaries having their residence or head office in other Member States for which no notification has been received by IVASS.<sup>237</sup>

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<sup>231</sup> Article 38 of IVASS Regulation n. 40 of 2 August 2018

<sup>232</sup> Article 3, par. 2, 3 of IVASS Regulation n. 40 of 2 August 2018

<sup>233</sup> Article 39 of IVASS Regulation n. 40 of 2 August 2018

<sup>234</sup> Article 48 of IVASS Regulation n. 40 of 2 August 2018

<sup>235</sup> Article 87 of IVASS Regulation n. 40 of 2 August 2018

<sup>236</sup> Article 8 and Article 9 of IVASS Regulation n. 40 of 2 August 2018

<sup>237</sup> Article 40, par. 1 of IVASS Regulation n. 40 of 2 August 2018

- › The undertaking that operates as distributor shall identify at least one person responsible for the insurance or reinsurance distribution and shall communicate the name to IVASS within thirty days from the date when the assignment is made.<sup>238</sup>
- › The intermediaries are prohibited to deal with undertakings not authorised or licensed to pursue business in the territory of the Italian Republic. Furthermore, Italian regulation contains rules, governing the “horizontal collaboration” between intermediaries as defined by Article 22, Par. 10 of Law Decree n. 179/2012, converted by Law n. 221/2012.<sup>239</sup>
- › The Italian regulation states obligation for undertakings to give information to IVASS on the granting/termination of distribution mandates to intermediaries and on the name of intermediaries using the multilevel marketing networks techniques. Furthermore, undertakings and intermediaries shall inform IVASS on the termination of their relationship with intermediaries registered in the Italian Register. This provision applies to EEA intermediaries/EEA insurance undertakings only in case they pursue the activity in the territory of Italian Republic through intermediaries registered in the Italian Register and therefore subjected to IVASS supervision.<sup>240</sup>
- › The Italian regulation provides specific rules governing the marketing of supplementary pensions plans by intermediaries and undertakings<sup>241</sup> and requirements and arrangements for the distribution of insurance contracts via “multilevel marketing networks” as defined by Art. 2, par. 1, lett. ss) of IVASS Regulation n. 40 of 2 August 2018.<sup>242</sup>
- › As regards rules governing the information for policyholder before a proposal or an insurance contract is underwritten, intermediaries shall make available to the public in their premises, also using technological equipment, a document printed in bold characters and conforming to the model envisaged in Annex 3 of IVASS Regulation n. 40/2018, illustrating the main rules of conduct imposed on intermediaries in accordance with the Italian regulation implementing IDD.<sup>243</sup>
- › A specific provision lists the documents to be delivered by the distributor to the policyholder (among others, copy of the contract and of any other act or document underwritten by the policyholder), which should be homogeneous for all market operators in order to protect the analysis capacity of the customer.<sup>244</sup> Furthermore, there are provisions governing the arrangements and means by which the pre-contractual information must be provided.<sup>245</sup>
- › The regulation allows to put together a distance insurance contract by means of an electronic document underwritten with qualified electronic signature or digital signature.<sup>246</sup>
- › Special provisions are stated for the group insurances in which the underwriting subjects bear all or part of the payment of premiums.<sup>247</sup>
- › The regulation on distance selling contains the prohibition to use procedures aimed at preventing certain categories of policyholder from contacting the distributor or underwriting the contract.<sup>248</sup>

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238 Article 41, par. 1, of IVASS Regulation n. 40 of 2 August 2018

239 Article 42, par. 1, 2, 3, 4, and 5 of IVASS Regulation n. 40 of 2 August 2018

240 Article 43, par. 4-8 of IVASS Regulation n. 40 of 2 August 2018

241 Article 49 of IVASS Regulation n. 40 of 2 August 2018

242 Article 50 of IVASS Regulation n. 40 of 2 August 2018

243 Article 56 of IVASS Regulation n. 40 of 2 August 2018

244 Article 60 of IVASS Regulation n. 40 of 2 August 2018

245 Article 61 of IVASS Regulation n. 40 of 2 August 2018

246 Article 62 of IVASS Regulation n. 40 of 2 August 2018

247 Article 66 of IVASS Regulation n. 40 of 2 August 2018

248 Article 71 of IVASS Regulation n. 40 of 2 August 2018

- Distributors are not allowed to place insurance contracts, including group insurance, by using distance communication methods, without the prior explicit consent of the policyholder or the underwriting subject. The absence of a reply or of dissent cannot be construed as expressing consent on the part of the policyholder. Furthermore, in the case of insurance covers proposed in combination with goods or services of a different nature, methods for the presentation of the product that envisage the automatic acceptance of non-requested items, and in all cases, opt-out mechanisms, are not permitted.<sup>249</sup>
- Special rules of conduct are stated in case of promotion and distance selling. Among these rules, it is required to intermediaries to give prior written notice to the undertakings for which they conduct business on the application of distance selling techniques and to assume full responsibility towards these undertakings also for any action of their staff, in relation to the performance of their mandate by means of distance techniques.<sup>250</sup>
- Specific provisions are stated on terms and arrangements for the transmission of documents to policyholders in case of promotion and distance selling.<sup>251</sup>
- There are also provisions laying down conditions for the distribution through call centres. It is a general good rule, with the following exceptions:
  - Paragraph 1, limited to the undertaking/intermediary's taking responsibility for the acts done by the staff of the call center he uses;
  - Paragraph 2 (a), limited to call center's staff subjected to IVASS supervision (see clarification under the description of art. 87 of IVASS Regulation n. 40/2018).<sup>252</sup>
- In case of promotion and marketing of insurance contracts via the internet, the information contained in the undertaking's website shall be supplemented with the indication that the undertaking operates through the website in the capacity of insurance distributor.<sup>253</sup>
- The distributors who carry out activities for the promotion and placement of insurance products through websites, shall be the owners of the related domain. The provision is aimed at ensuring an adequate level of consumer protection and an effective anti-fraud supervision and applies without prejudice to the right of the undertaking to make available to the intermediaries it uses, some space on its website where they can carry out the activities mentioned above.<sup>254</sup>
- Specific rules are stated on information to be made available on the website and information obligation in case of placement of insurance contracts through the internet.<sup>255</sup>
- Furthermore, the intermediary's website, social network profiles and applications used for the promotion and the placement of insurance products, shall contain on the home page, or on a specific page directly accessible from the home page, in a clear and visible manner, specific information for the customer.<sup>256</sup>
- Specific rules of conduct and disclosure obligation are to be observed in the offering of comparison services on insurance contracts.<sup>257</sup>

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<sup>249</sup> Article 72 of IVASS Regulation n. 40 of 2 August 2018

<sup>250</sup> Article 74 of IVASS Regulation n. 40 of 2 August 2018

<sup>251</sup> Article 75 of IVASS Regulation n. 40 of 2 August 2018

<sup>252</sup> Article 76 of IVASS Regulation n. 40 of 2 August 2018

<sup>253</sup> Article 77 of IVASS Regulation n. 40 of 2 August 2018

<sup>254</sup> Article 78 of IVASS Regulation n. 40 of 2 August 2018

<sup>255</sup> Article 81 of IVASS Regulation n. 40 of 2 August 2018

<sup>256</sup> Article 79 of IVASS Regulation n. 40 of 2 August 2018

<sup>257</sup> Article 80 of IVASS Regulation n. 40 of 2 August 2018

- Distributors which use distance communication techniques for commercial communications, even if made by third parties, are required to disclose specific information to the policyholder.<sup>258</sup>
- The Italian regulation foresees the obligation for distributors to gain the policyholder's explicit consent to the sending of commercial communications by means of distance communication techniques.<sup>259</sup>

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<sup>258</sup> Article 83 of IVASS Regulation n. 40 of 2 August 2018

<sup>259</sup> Article 82 of IVASS Regulation n. 40 of 2 August 2018



## LATVIA

Single point of contact responsible for providing information on general good rules:

Financial and Capital Market Commission

General good rules published (for undertakings and intermediaries):

<https://www.fktk.lv/en/law/general/general-good-provisions/>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### **ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING**

- 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.<sup>260</sup>

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<sup>260</sup> Article 35, Paragraph one of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

- 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.<sup>261</sup>

#### **ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY**

- 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.<sup>262</sup>
- 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.<sup>263</sup>
- 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.<sup>264</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- The information referred to in Articles 18, 19 and 20 of the 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.<sup>265</sup>
- The information referred to in Articles 29 and 30 of the IDD need not be provided to a professional client as defined in point (10) of Article 4(1) of MiFID II.<sup>266</sup>

#### **ARTICLE 24 – CROSS-SELLING**

- 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.<sup>267</sup>

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<sup>261</sup> Article 35, Paragraph two of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>262</sup> Article 34, Paragraph one, Point 9(a) of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>263</sup> Article 34, Paragraph one, Point 11 of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>264</sup> Article 34, Paragraph six, Article 43, Paragraph six of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>265</sup> Article 38, Paragraph one of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>266</sup> Article 38, Paragraph two of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>267</sup> Article 40, Paragraph seven of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums).

## ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- 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 126.2 (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.<sup>268</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 1 AND 2 – SCOPE AND DEFINITIONS

- 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.<sup>269</sup>

### ARTICLE 3 – REGISTRATION REQUIREMENTS

- Insurance and reinsurance brokers shall be registered in the register of insurance and reinsurance brokers maintained by the Financial and Capital Market Commission.<sup>270</sup>
- Insurance agents shall be registered in the register of insurance agents maintained by an insurance merchant or a branch of a foreign insurer.<sup>271</sup>
- Ancillary insurance intermediaries shall be registered in the register of ancillary insurance intermediaries maintained by an insurance merchant, a branch of a foreign insurer or an insurance broker.<sup>272</sup>

<sup>268</sup> Article 44, Paragraph six of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārāpdrošināšanas izplatīšanas likums).

<sup>269</sup> Article 1, Paragraph one, Point 1 of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārāpdrošināšanas izplatīšanas likums).

<sup>270</sup> Article 5, Paragraph five of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārāpdrošināšanas izplatīšanas likums).

<sup>271</sup> Article 5, Paragraph six of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārāpdrošināšanas izplatīšanas likums).

<sup>272</sup> Article 5, Paragraph seven of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārāpdrošināšanas izplatīšanas likums).

**ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- The person responsible for insurance or reinsurance intermediary or for ancillary insurance intermediary and the employee directly involved the distribution of insurance and reinsurance may not be a person that meets at least one of the following conditions:
  - 1) the person has been penalised for committing an intentional crime against the State, property or management procedures or for committing an intentional crime related to the national economy or fulfilling duties in the public authorities or committing a crime related to terrorism, and conviction has not been removed or extinguished;
  - 2) the supervisory and control authority provided for in the Law on the Prevention of Money Laundering and Terrorism Financing, or the competent authority provided for in the Law on International Sanctions and National Sanctions of the Republic of Latvia has applied a sanction to a person and on its website has made public information on the infringement of sanctions regulations (except a warning) regarding international or national sanctions or money laundering and terrorism financing regulatory requirements and less than one year has passed since the imposition of sanction;
  - 3) the natural person's insolvency proceedings have been declared in respect of the person and less than one year has passed since its termination.<sup>273</sup>
- The person responsible for insurance or reinsurance intermediary or for ancillary insurance intermediary and the employee directly involved the distribution of insurance and reinsurance has good repute, if such person is not subject to any of conditions referred to in Section 19 of this Law, as well as no circumstances have been identified which, while continuing to perform duties related to the distribution of insurance or reinsurance, may harm reputation of insurance or reinsurance distributor, may result in the risk of being involved in illegal activities by the insurance and reinsurance distributor or threaten the rights or interests of customers.<sup>274</sup>
- An insurance merchant or a branch of a foreign insurer:
  - 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 17, Article 18 (4), (5) and (6), Article 19, Article 21 (2) and Article 23 (1), (3), (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 17, Article 18 (4), (5) and (6), Article 19, Article 21 (2) and Article 23 (1), (3), (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.<sup>275</sup>

<sup>273</sup> Article 19 of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums)

<sup>274</sup> Article 21, Paragraph two of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums).

<sup>275</sup> Article 24 of Insurance and Reinsurance Distribution Law (Apdrošināšanas un pārapdrošināšanas izplatīšanas likums).

# LIECHTENSTEIN

Single point of contact responsible for providing information on general good rules:

Financial Market Authority

General good rules published (for intermediaries):

<https://www.fma-li.li/en/intermediaries/insurance-and-pension-funds-division/insurance-intermediaries/regulation-legal-basis.html>

General good rules published (for undertakings):

<https://www.fma-li.li/files/list/general-good-rules-insurance-undertakings-and-distributers-en.pdf>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- › Exercise of Member State option foreseen under Article 22(1), subparagraph 2

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › Exercise of Member State option foreseen under Article 29(1), subparagraph 3

#### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- › Exercise of Member State option foreseen under Article 30(3)

# LITHUANIA

Single point of contact responsible for providing information on general good rules:

Bank of Lithuania

General good rules published (for intermediaries):

[https://www.lb.lt/uploads/documents/docs/21703\\_265b1bfd9aec1d83ofod25b6e6cff46.docx](https://www.lb.lt/uploads/documents/docs/21703_265b1bfd9aec1d83ofod25b6e6cff46.docx)

General good rules published (for undertakings):

[https://www.lb.lt/uploads/documents/docs/21704\\_c5f1f6026b449fodcocbaed405b6de54.doc](https://www.lb.lt/uploads/documents/docs/21704_c5f1f6026b449fodcocbaed405b6de54.doc)

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY

- The main aim of these new national provisions – to set requirements for the investment direction management service and to prohibit cases when a fee is taken for asset management, although life insurers virtually do not provide this service. New provisions are applied to all insurers offering the unit-linked insurance in Lithuania.<sup>276</sup>

#### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- The provision sets an exemption for the duty of insurance distributor to provide information regarding personal advice (including advice on the basis of a fair and personal analysis) on insurance based investment product when the product is sold to a professional client.<sup>277</sup>
- The provision sets an exemption for the duty of insurance distributor to provide information regarding assessment of suitability and appropriateness of particular insurance based investment product when the product is sold to a professional client.<sup>278</sup>
- The provision requires that it is forbidden for insurance brokerage companies to publish, advertise and present their insurance products distribution services as independent when the remuneration for these services is not obtained from the policyholder.<sup>279</sup>
- Article 116 establishes the obligation to disclose all of the insurance contract fees expressed, inter alia, in absolute terms.<sup>280</sup>

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<sup>276</sup> Article 90<sup>4</sup> of the Law on Insurance

<sup>277</sup> Article 158<sup>2</sup>(5) of the Law on Insurance

<sup>278</sup> Article 158<sup>3</sup>(10) of the Law on Insurance

<sup>279</sup> Article 158<sup>2</sup>(4) of the Law on Insurance

<sup>280</sup> Article 116 of the Law on Insurance

## ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- › The Law on Insurance establishes the duty for the insurer or insurance intermediary to assess the suitability and appropriateness of particular insurance based investment product. The appropriateness test shall be performed in any case when the insurance based investment product is being sold without advice (no exemption for non-complex products).<sup>281</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 3 – REGISTRATION REQUIREMENTS

- › The provisions establishes registration requirements for insurance brokers, insurance agents, ancillary insurance intermediaries and reinsurance intermediaries consisting of documents and information necessary for registration as well as the procedure of registration.<sup>282</sup>

### ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS

- › The provisions establish the rule that insurance, reinsurance and insurance brokerage companies are responsible that their employees (for insurance companies – also the employees of insurance agents companies) have sufficient knowledge and competence.

The control and assessment of the knowledge and competence of insurance distributors shall be performed according to the rules and procedures defined by the particular company.

The competence of particular insurance distributor shall be proved by the relevant document (e.g. certificate) or by the way of examination (e.g. test).

The development of the competence shall be performed by the attendance relevant training events (e.g. seminars) as well as self-development (e.g. textbooks). Self-development shall not exceed 30 percent of all the development.

All the required knowledge and competence topics shall be covered at least once in 3 years.<sup>283</sup>

## OTHER THEMES

- › Information disclosure: The requirement to publish standard terms and conditions of insurance policy on the website of the insurance undertaking.<sup>284</sup>
- › Claims handling: The provisions require insurer to handle claims in prescribed timing and by following particular procedures.<sup>285</sup>

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<sup>281</sup> Article 15<sup>83</sup> of the Law on Insurance.

<sup>282</sup> Resolution No. 03-98 “On the Registration of the Insurance, Reinsurance Intermediaries and Ancillary Insurance Intermediaries” adopted by the Board of the Bank of Lithuania on 12 June 2018.

<sup>283</sup> Resolution No. 03-93 “On the Approval of the of Requirements for the Competence of Insurance and Reinsurance Distributors and Development of it, the Criteria of Control and Assessment of the Competence, the Description of the Procedure for the Recognition of Competence” adopted by the Board of the Bank of Lithuania on 12 June 2018.

<sup>284</sup> Article 92 of the Law on Insurance.

<sup>285</sup> Article 98 of the Law on Insurance.

- Acquisition costs: The provision requires that the insurer shall set fees of the insurance contract relating to capital accumulation covering the acquisition costs in equal instalments and deduct them from insurance premiums for a period of not less than 3 years from the conclusion of the insurance contract.<sup>286</sup>
- Surrender value: The provision requires that in calculating the surrender value, the accumulated capital of the policyholder cannot be reduced by other fees or the uncovered expenses of the insurer, except the fee for termination of the insurance contract, the size of which must correspond only to the direct costs related to the termination of the insurance, or must be equal to 2% of the value of the accumulated capital and cannot exceed 50 euro.<sup>287</sup>
- Information disclosure: The provision requires that any producer, seller or service provider in Lithuania shall provide information on his products or services in national language. The national language shall be obligatory in all public external and internal inscriptions of trade and service supply premises intended for consumers, including the names of trade and service supply premises.<sup>288</sup>
- Dispute resolution: The insurers must follow the dispute settlement out-of-court rules. The Bank of Lithuania settles disputes regarding financial services which are provided for in the Republic of Lithuania Law on the Bank of Lithuania.<sup>289</sup>
- Information disclosure: The provision requires insurance distributor to provide some additional information prior to the conclusion of life assurance (with capital accumulation) contract regarding insurance premiums, contract fees, accumulated capital (each year of the contract). Also there is a requirement for insurer to provide the policyholder a yearly report regarding his life assurance (with capital accumulation) contract.<sup>290</sup>

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<sup>286</sup> Article 115<sup>1</sup> of the Law on Insurance.

<sup>287</sup> Article of 126(3) of the Law on Insurance.

<sup>288</sup> Article 5 of the Law on Consumer Protection.

<sup>289</sup> Section 6 of the Law on Consumer Protection.

<sup>290</sup> Resolution No. 03-91 "On the Approval of the Rules of the Disclosure of Information Provided by the Insurance Distributors to the Insured" adopted by the Board of the Bank of Lithuania on 12 June 2018.



# LUXEMBOURG

Single point of contact responsible for providing information on general good rules:

Insurance Commission

General good rules published (for intermediaries):

<http://www.caa.lu/fr/documentations/regles-d-interet-general>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### **ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING**

- An insurance intermediary acting on behalf of one or more insurance undertakings must inform the customer of the name of those undertakings. An insurance intermediary acting on behalf of one or more other intermediaries, being natural or legal persons, must also inform the customer of the name of the intermediary or intermediaries on behalf of whom he works, the register of distributors in which these intermediaries are registered and their registration number.<sup>291</sup>

#### **ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- Option according to Article 22(2), subparagraph 1 has been exercised:  
In addition to the information required by article 19 IDD, an insurance intermediary must inform his clients of the existence of any contract for the provision of services with a specific insurer that goes beyond the insurance distribution business.<sup>292</sup>
- Option according to Article 22(2), subparagraph 3 and Article 29(3), subparagraph 3 has been exercised: Insurance distributors whose customers' usual residence or establishment is in the Grand Duchy of Luxembourg, must provide advice within the meaning of Article 279, paragraph 5, LSA, unless the customer agrees to waive this advice individually in writing and prior to any act of distribution.<sup>293</sup>

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291 Article 295-8, paragraph 1 of the law of 7 December 2015 on the insurance sector, as amended

292 article 295-9, paragraph 1, point c) of the law of 7 December 2015 on the insurance sector, as amended

293 article 295-10, paragraph 1 of the law of 7 December 2015 on the insurance sector, as amended

**ARTICLE 24 – CROSS-SELLING**

- › The CAA may intervene on a case-by-case basis to prohibit the sale of an insurance contract with a service or ancillary product that is not an insurance contract, in the context of cross-selling, where it can demonstrate that such practices seriously harm consumers.<sup>294</sup>

**ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS****ARTICLE 29 – INFORMATION TO CUSTOMERS**

- › Exercise of option according to Article 29(1), subparagraph 3 of the IDD: Information relating to costs and related charges which must be given to (potential) customers in relation to IBIPs may be given in a standardised form.<sup>295</sup>
- › Exercise of option according to Article 29(3), subparagraph 4 of the IDD: Distributors whose customers' usual residence or establishment is situated in the Grand Duchy of Luxembourg, and who, in the context of pre-contractual information, inform their clients that they represent them, must base their advice on an impartial and personalised analysis.<sup>296</sup>

**ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- › Exercise of option according to Article 30(3) of the IDD:  
Under the conditions foreseen by article 295-20, paragraph 3, LSA of the IDD, and without prejudice of article 295-10, paragraph 1, LSA, in case of IBIPs distributed without advice in Luxembourg, intermediaries or insurance companies may carry on these activities without having to obtain the information regarding a person's knowledge and experience in the investment field or determine the appropriateness of the insurance service or product for the customer.<sup>297</sup>
- › In addition to the obligation resulting from article 30(5) IDD and referring to the conclusion of an insurance contract by means of distance selling and possibility resulting therefrom for the customer, upon its prior acceptance, to be provided with the suitability statement after the conclusion of the insurance contract, the suitability statement must be provided to such customer prior to the expiry of the withdrawal period foreseen in article 100 of the law of 27 July 1997 on the insurance contract, as amended. The said article 100 is applicable to individual life insurance contracts concluded for a period exceeding 6 months and foresees a withdrawal period of one month.<sup>298</sup>

**SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS****ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- › By 1st January 2020 at the latest, persons involved in direct distribution and working within insurance undertakings established in the Grand Duchy of Luxembourg must hold an insurance agent's licence. This is to ensure that the same fit and proper requirements apply to both agents and staff of insurance companies directly involved in insurance distribution.<sup>299</sup>

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294 Article 295-14 (6) of the Law of 7 December 2015 on the insurance sector as amended.

295 article 295-19, paragraph 1, subparagraph 3 of the law of 7 December 2015 on the insurance sector, as amended

296 Article 283-4 of the Law of 7 December 2015 on the insurance sector as amended.

297 Article 295-20 (3) of the Law of 7 December 2015 on the insurance sector as amended.

298 Article 295-20 (7) sp 2 of the Law of 7 December 2015 on the insurance sector as amended.

299 article 285-1, paragraph 1 of the law of 7 December 2015 on the insurance sector, as amended

- In order to assure adequate consumer protection, each insurance and reinsurance undertaking established in the Grand Duchy of Luxembourg must keep a record of their staff directly involved in insurance or reinsurance distribution and not yet licensed as an insurance agent. The persons filed on these records must accomplish their professional training according to articles 38 ff. of CAA regulation 19/01 relating to insurance and reinsurance distribution. Each year, before the 31st of January, each such undertaking has to communicate to the CAA the name of their staff members not having fulfilled the legally foreseen training requirements. The final verification of that conformity is made by CAA.<sup>300</sup>
- Exercise of option according to Article 10(3) of the IDD: Insurance and reinsurance undertakings established in the Grand Duchy of Luxembourg are required to check every 3 years the good repute of their staff filed on the record they need to hold according to article 285-1 LSA. The staff needs to inform the employer as soon as possible of any new development in that respect. The same provision applies to insurance and reinsurance brokers established in the Grand Duchy of Luxembourg in respect of their sub-brokers. Article 49 of CAA regulation 19/01 provides further guidance.<sup>301</sup>

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300 articles 285-1 and 288, paragraph 3 of the law of 7 December 2015 on the insurance sector, as amended

301 article 285-3 of the law of 7 December 2015 on the insurance sector, as amended

## MALTA

Single point of contact responsible for providing information on general good rules:

Financial Services Authority

General good rules published (for undertakings and intermediaries):

<https://www.mfsa.com.mt/firms/regulation/conduct-supervision/insurance/regulation/general-good-rules/>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- The Conduct of Business Rulebook requires insurance distributors to apply greater standards of care than those established in the IDD in the provision of their services and the treatment of clients and information relating to the latter. In particular, these provisions require insurance distributors to obtain information from the client to follow certain business practices in providing distribution services. Additional requirements also relate to the content of receipts provided to clients as a consequence of the distribution services being provided to clients. These requirements supplement the general condition in Article 17(1) of the IDD that an insurance distributor is required to act honestly, fairly and in accordance with the best interest of the client.
- The provisions in Section 2 of Chapter 1 of the Conduct of Business Rulebook provide additional requirements a European insurance distributor is required to abide by when issuing, disseminating or approving advertisements.

#### ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- Insurance Distributors appointing tied insurance intermediaries or ancillary insurance intermediary should ensure that these identify themselves to clients and disclose the name of their principals, the capacity in which they are acting as well as indicate their enrollment number and show the company's business card. There are also certain additional disclosures to be made when an intermediary proposes to write cover with an insurance undertaking which is not authorised in Malta or is a European Insurance undertaking. Further additional disclosures are required when the insurance intermediary is proposing to place a client's insurance requirements with an underwriting member of Lloyds.<sup>302</sup>

#### ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- The Conduct of Business Rulebook lays down requirements relating to the sales process and practices which are to be adhered to by persons providing insurance distribution activities in Malta. In particular, these provisions require insurance distributors to obtain information from the client to follow certain business practices in providing distribution services. Additional requirements also relate to the content of receipts provided to clients as a consequence of the distribution services being provided to clients.

<sup>302</sup> Conduct of Business Rulebook, [https://www.mfsa.com.mt/wp-content/uploads/2019/04/20190402\\_FINAL-FOR-PUBLICATION-CONDUCT-OF-BUSINESS-RULEBOOK\\_CONF\\_FINAL.pdf](https://www.mfsa.com.mt/wp-content/uploads/2019/04/20190402_FINAL-FOR-PUBLICATION-CONDUCT-OF-BUSINESS-RULEBOOK_CONF_FINAL.pdf).

- In addition, there are disclosures which are required to be provided to the client by persons providing insurance distribution activities, in the context of IBIPS as well as to the manner in which independent advice may be provided (e.g. requirement to conduct a fair and comprehensive analysis of the market by assessing a sufficient range of products available on the market which shall be sufficiently diverse. Products should not be limited to those issued or approved by the person carrying out insurance distribution activities itself or persons having close links with it, or by other entities with which such person has such close legal or economic relationships, such as contractual relationships, as to pose a risk of impairing the independent basis of the Advice Provided.<sup>303</sup>
- Furthermore, the Conduct of Business Rulebook requires the IPID to be provided as part of the disclosures to be provided to the clients in terms of Chapter 1.

#### **ARTICLE 22 - INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- Insurance distributors providing distribution services from a place of business accessible to the public are required to display the licensing, authorisation, enrolment or registration or an official copy thereof, issued by the competent authority granting such authorisation, enrolment or registration in a prominent place to which the public has access. Insurance intermediaries are required to disclose to clients consequences of the latter's failure to make complete disclosure of the circumstances material to the contract of insurance. Further detailed information is required to be provided by the insurance distributor in a durable medium prior to the provision of the insurance service. Furthermore, when distributing insurance based investment products, insurance distributors are required to disclose, at any time the client requests it, further details of the conflicts of interest policy it has in place, in a durable medium or by means of a website.<sup>304</sup>

#### **ARTICLE 23 – INFORMATION CONDITIONS**

- The Conduct of Business Rulebook lays down certain requirements as to the language in which certain documents are to be provided to clients in Malta. They also include requirements to be observed when insurance distribution activities are carried out over the internet or by means of a website.

### **ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS**

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- Option foreseen in Article 29(3), subparagraph 4 has been exercised.<sup>305</sup>

#### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- Option foreseen in Article 30(3), subparagraph 3 has been exercised.<sup>306</sup>
- The record referred to in Article 30(4) of the IDD should not, (except where permitted by applicable legislation), exclude or restrict, or seek to exclude or restrict:
  - a) any legal liability or duty of care to a Client which the person providing insurance distribution activities has under applicable law or under these Rules;
  - b) any other duty to act with skill, care and diligence which is owed to a Client in connection with the provision to that Client of a Product or Service; or
  - c) any liability owed to a Client for failure to exercise the degree of skill, care and diligence that may reasonably be

<sup>303</sup> Conduct of Business Rulebook.

<sup>304</sup> Conduct of Business Rulebook.

<sup>305</sup> Rule 4.3.6 and Rule 1.4.18 of the Conduct of Business Rulebook.

<sup>306</sup> Conduct of Business Rulebook.

expected of it in the provision of a Product or Service.<sup>307</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS

- This General Good Provision is applied only in the context of Freedom of Establishment. Accordingly Chapter 8 of the Insurance Distribution Rules provides more details as to how Insurance Distributors and re insurance distributors abide by the requirement set out in Article 10(6)c of the IDD.

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<sup>307</sup> Conduct of Business Rulebook.

## THE NETHERLANDS

Single point of contact responsible for providing information on general good rules:

De Nederlandsche Bank

General good rules published (for undertakings and intermediaries):

<http://www.toezicht.dnb.nl/en/binaries/51-213531.pdf>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 22 - INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- Exercise of Member State option foreseen under Article 22(1), subparagraph 2.<sup>308</sup>
- This Member State option has been exercised in order to maintain consumer protection. The Netherlands opts to maintain the ban on commissions for complex products, such as insurances with an investment component.<sup>309</sup>

#### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

##### ARTICLE 29 – INFORMATION TO CUSTOMERS

- We have the essentiële informatie document (KID) for standardised information.<sup>310</sup>
- On the basis of article 29.3 IDD, the Netherlands imposed stricter requirements on advisers and product providers regarding the payment and receiving of commissions or non- monetary benefits, by introducing a ban for such commissions for certain products.<sup>311</sup>
- We consider transparency about the level of service to be important from the point of view of consumer protection. It is important that the broker compares a sufficient number of products.<sup>312</sup>

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<sup>308</sup> Art. 4:18 (1), sub b Wft.

<sup>309</sup> Art. 86c (1) BGfo.

<sup>310</sup> Art. 65 BGfo and Artikel 66a BGfo.

<sup>311</sup> Article 86c Besluit Gedragstoezicht financiële ondernemingen Wft.

<sup>312</sup> Art. 86f BGfo and Art. 86i BGfo.

## NORWAY

Single point of contact responsible for providing information on general good rules:

Finanstilsynet

General good rules published (for undertakings and intermediaries):

<https://www.finanstilsynet.no/en/laws-and-regulations/insurance-and-pensions/activity-of-eea-intermediaries-in-norway/>

### General remarks

Norway has not yet implemented the IDD. Therefore, Norway has yet to publish general good rules implementing the IDD. However, Norway has existing general good rules implementing the IMD which will continue to be applicable in Norway until they are changed as part of the transposition of the IDD. These general good rules are quoted in the following.

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

- An insurance brokerage firm shall operate the undertaking in accordance with good brokering practice. The insurance brokerage firm must not act in a manner likely to cause doubt concerning its position as an independent intermediary. The insurance brokerage firm shall provide the documentation necessary for an insurance contract to be concluded.<sup>313</sup>
- Prior to the conclusion of an insurance contract and in the event of changes to or renewal of a contract, the insurance intermediary shall provide the customer with the size of the commission and/or other remuneration that the insurance intermediary receives from the insurance provider in connection with the conclusion of a contract concerning insurance, and the size of the commission or other remuneration that the insurance intermediary will demand from the principal, the charge the policyholder is required to pay to the Norwegian Natural Perils Pool pursuant to Section 4a of the Act of 16 June 1989 no. 70 relating to Protection Against and Compensation for Natural Damage if fire insurance for risks in Norway is mediated from an insurance undertaking that is not a member of the Norwegian Natural Perils Pool, etc.<sup>314</sup>
- The insurance intermediary shall, particularly based on the information provided by the customer, as a minimum, clarify the customer's requirements and needs, and state reasons for any advice they give the customer concerning a specific insurance product. These clarifications shall be commensurate with the suggested insurance contract's complexity.<sup>315</sup>
- There is a requirement for mandatory advice when selling personal insurance, which also covers insurance-based investment products. The requirement for advice means that a suitability assessment must always be carried out when selling personal insurance. In administrative practice, strict requirements have been set for obtaining information about the customer's demands and needs to ensure that an advice on buying insurance-based investment products actually covers a need of the customer of the kind that such products require. An advice when selling insurance-based investment products must also cover conditions relevant to subsequent changes in the investment portfolio.<sup>316</sup>

<sup>313</sup> Section 5-2 and 8-2 in Act 10 June 2005 on Insurance Mediation.

<sup>314</sup> Section 3-1 of Regulations no. 1421 on Insurance Mediation.

<sup>315</sup> Section 3-1 of Regulations no. 1421 on Insurance Mediation.

<sup>316</sup> Section 11-1 of the Act of 16th June 1989 no. 69 relating to Insurance Contracts.



- Furthermore an insurance intermediary shall have the same duty to inform as an insurance undertaking that practices activities in Norway has.<sup>317</sup>
- Norwegian legislation prohibits an insurance broker operating in Norway from receiving commission from insurance companies. The commission is to be paid directly by the policyholder. The prohibition is directed both at the insurance broker and at the insurance company. The prohibition is aimed at preventing doubts as to the independent role of the broker. However, the prohibition does not apply to mediation of insurance contracts issued by EEA insurance companies not established in Norway, provided that the commission received from the insurance company is transferred to the principal (customer).<sup>318</sup>

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<sup>317</sup> Chapters 2 and 11 of the Act of 16th June 1989 no. 69 relating to Insurance Contracts.

<sup>318</sup> Section 5-2 and 8-2 in Act 10 June 2005 on Insurance Mediation.

## POLAND

Single point of contact responsible for providing information on general good rules:

Financial Supervision Authority

General good rules published (for undertakings and intermediaries):

[https://www.knf.gov.pl/en/MARKET/Information\\_for\\_the\\_authorized\\_entities/Insurance](https://www.knf.gov.pl/en/MARKET/Information_for_the_authorized_entities/Insurance)

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### **ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING**

- Article 22 of act on insurance distribution requires agent to show PoA document to the client at the first operation.<sup>319</sup>
- Article 32 of act on insurance distribution requires agent to show inform client about the number in registrar, and the manner of checking it. Insurance Broker is also required to show decision of authorization to perform brokerage activity.<sup>320</sup>
- Article 17 of Insurance and reinsurance activities act requires insurer to prepare an index of important provisions of contract, presented before terms and conditions of insurance contract.<sup>321</sup>
- In contract to the benefit of third party, where insured person is bearing the costs of insurance premium, insured shall be provided a terms and conditions of insurance before expressing such permit.<sup>322</sup>
- Insurer shall inform about the law applicable to the contract and provide information for complaints handling.<sup>323</sup>

##### **ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY**

- National regulation prohibits ownership insurance agencies and brokerage companies at the same time. Insurance agents and insurance brokers should act separately. An insurance broker owning an insurance agency becomes

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<sup>319</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 22.

<sup>320</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 32.

<sup>321</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 17.

<sup>322</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 19.

<sup>323</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 25.

interested in products of particular insurance companies. In our opinion insurance intermediaries should decide whether they want to act on behalf of clients or insurance companies.<sup>324</sup>

- Combination of insurance agents activity and insurance brokers activity is not permitted. Insurance or/and reinsurance broker shall not possess insurance undertaking nor insurance agents shares. Insurance or/ and reinsurance broker shall not hold ASMB functions in insurance undertaking or insurance agent.<sup>325</sup>

#### **ARTICLE 22 - INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE**

- Insurance and reinsurance activity act in art 18 prohibit to remunerate policyholder in group insurance, or person acting on behalf of policyholder, with exception of set in article 18 para 3 (employees insurance).<sup>326</sup>
- In unit-linked contracts concluded for periods longer than 5 years the insurance undertaking, when remunerating the insurance agent, shall follow the principle of equal distribution in time of expenditures for the insurance agent commission in the period of at least 5 years. If unit-linked insurance contract is concluded for less than 5 years, such expenditures shall be splitted equally for the contracts period.<sup>327</sup>
- For insurance contract, where the amount of benefit is established on the basis of indices or other baseline value if the contract exceeds 5 years, insurance undertaking, when remunerating the insurance agent, shall follow the principle of equal distribution in time of expenditures for the insurance agent commission in the period of at least 5 years. If such contract does not exceed 5 years - for the contract's period.<sup>328</sup>

### **ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS**

#### **ARTICLE 29 – INFORMATION TO CUSTOMERS**

- Implementation of the legal option according to Article 29(3), subparagraph 3 of the IDD.<sup>329</sup>
- Implementation of the legal option according to Article 29(3), subparagraph 4 of the IDD - applied to insurance brokerage activity.<sup>330</sup>

<sup>324</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 25.

<sup>325</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 30.

<sup>326</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 18.

<sup>327</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 23, sp 5 and 6.

<sup>328</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 24, sp 3 and 4.

<sup>329</sup> Act of 11th of September 2015 on the business of insurance and reinsurance (consolidated text Journal of Laws 2018 item 999 as amended), Article 21.

<sup>330</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 32.

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 14 – COMPLAINTS

- Every complaint shall be answered within 30 days from filing.<sup>331</sup>
- The requirements relating to the procedure for responding to the complaint within the 30 days from filing also apply to complaints filed by a client who is a corporate entity or a non-corporate entity.<sup>332</sup>

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<sup>331</sup> Act of 5th of august 2015 on examining of complaints by financial market entities and on the Financial Ombudsman, (Consolidated text Journal of Laws 2017 item 2270 as amended), Article 3, Article 4, Article 5, Article 6, Article 7, Article 8, Article 9 and Article 10

<sup>332</sup> Act of 15th of December 2017 on insurance distribution (Consolidated text: Journal of Laws 2017 item 2486 as amended), Article 16.

## PORTUGAL

Single point of contact responsible for providing information on general good rules:

Portuguese Insurance and Pension Funds Supervisory Authority

General good rules published:

<https://www.asf.com.pt/NR/exeres/E917A414-1B2E-40B7-972B-5D244B7D45D1.htm>

### ANALYSIS OF GENERAL GOOD RULES

#### OTHER THEMES

- › General principle: Insurance, reinsurance and ancillary insurance intermediaries are not entitled to execute contracts in the name of the insurance undertaking, except if empowered by the same to do so.<sup>333</sup>
- › General principle: Insurance, reinsurance and ancillary insurance intermediaries are not allowed to provide cover for risks in their own name.<sup>334</sup>
- › General principle: Insurance and reinsurance distributors are required to comply with the legal and regulatory requirements applying to the insurance and reinsurance activity and to the distribution activity and refrain from being party in contracts executed in breach of these requirements.<sup>335</sup>
- › General principle: Insurance and reinsurance distributors are required to provide assistance – correctly and efficiently – in the intermediated contracts.<sup>336</sup>
- › General principle: Insurance and reinsurance distributors are required to take all reasonable steps to prevent inexact or incomplete declarations by the policyholder and situations which stand in breach or constitute cases of fraud against the law or where there is indication of potential money laundering or terrorism financing.<sup>337</sup>
- › General principle: Insurance, reinsurance and ancillary insurance intermediaries are required to maintain professional secrecy regarding information related with the distribution activity.<sup>338</sup>

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<sup>333</sup> Article 78/3 and article 24/1 a) of the insurance and reinsurance distribution regime (approved as annex to the law nr. 7/2019, January 16th).

<sup>334</sup> Article 78/3 and article 24/1 b) of the insurance and reinsurance distribution regime (approved as annex to the law nr. 7/2019, January 16th).

<sup>335</sup> Article 78/3 and article 24/1 c) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

<sup>336</sup> Article 78/3 and article 24/1 d) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

<sup>337</sup> Article 78/3 and article 24/1 e) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

<sup>338</sup> Article 78/3 and article 24/1 f) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

- General principle: Insurance, reinsurance and ancillary insurance intermediaries are required to evidence the respective registration as an intermediary if requested by a customer or potential customer.<sup>339</sup>
- Reporting requirements: Insurance and reinsurance distributors are required to submit in due time all the clarifications and information required and to present all the documents established in the legal regime or requested by ASF.<sup>340</sup>
- Reporting requirements: To report any amendments to the information provided to ASF under the fulfilment of the applicable duties within 30 days as of the verification of those amendments, except if a different deadline is established.<sup>341</sup>

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<sup>339</sup> Article 78/3 and article 24/1 g) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

<sup>340</sup> Article 78/3 and article 34/1 a) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

<sup>341</sup> Article 78/3 and article 34/1 b) of the insurance and reinsurance distribution regime (approved as an annex to the law nr. 7/2019, January 16th).

## ROMANIA

Single point of contact responsible for providing information on general good rules:

Financial Supervision Authority

General good rules published:

<https://asfromania.ro/en/legislation/sectorial-legislation/insurance-reinsurance-market/secondary-legislation-csa-2>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### ARTICLE 17 – GENERAL PRINCIPLE

- › National provision supplying the marketing communications of the intermediaries and the remuneration: - all intermediaries are strictly forbidden to promote or to advertise, on the basis of any kind of remuneration, the insurance products or the activities or any kind of actions of the insurance undertakings.<sup>342</sup>

##### ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › Art. 14 (8) refers in general to all information according to legal provisions to be provided to the customer together with an IPID. The national secondary legislation contains additional information on the procedure of providing IPID, KID, DNT (demands and needs test) and advice, and also information of the documents to be provided to the clients for the type of insurance products which are not covered by the European legislation corresponding to IPID and KID – the simple life insurance products.<sup>343</sup>

##### ARTICLE 22 – INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- › Art. 18 (2) - information referred to in Art. 29 and 30 of the IDD are not provided to a professional client as defined in art. 4 (1) point 10 - MiFID II.<sup>344</sup>
- › Art. 18(3) - advice is mandatory for certain types of insurance products, which are presented within the draft secondary legislation. Art.23 (1),(2) - national provisions are to be complied also by the insurance distributors operating under FOS and FOE, when concluding insurance contracts with customers from RO.<sup>345</sup>
- › Art. 13(5) - the acceptance or receipt of fees, commissions, etc. paid for insurance distributors by any third party, in relation with insurance distribution is forbidden. The third party excludes the customer, the insurance undertaking

<sup>342</sup> Law no. 236/2018 regarding insurance distribution, Art. 12 – Principiile si informatiile generale (General principle and information) alin. (5).

<sup>343</sup> Law no. 236/2018 regarding insurance distribution, Art. 14 - Informatiile privind consultanta (Information on advice) alin. (8).

<sup>344</sup> Law no. 236/2018 regarding insurance distribution, Art. 18 - Exceptii si cauza de flexibilitate (Exemptions and flexibility cause) alin.(2).

<sup>345</sup> Law no. 236/2018 regarding insurance distribution, Art. 18 - Exceptii si cauza de flexibilitate (Exemptions and flexibility cause) alin. (3) Art. 23 - Cerinte suplimentare activitate FOS si FOE (Additional requirements for FOS and FOE activities) alin.(1),(2).

or the insurance intermediary. This provision was introduced in order to avoid the misunderstanding regarding the possibility of an insurance intermediary that acts on behalf of another insurance intermediary or undertaking or even the possibility of a customer to accept or receive fees, commissions or benefits.<sup>346</sup>

#### ARTICLE 29 – INFORMATION TO CUSTOMERS

- RO had used this option in primary legislation as a power, but further details might be elaborated within FSA secondary legislation, if the market conditions impose it. For now, FSA decided not to detail those provisions.<sup>347</sup>
- RO had used this option in primary legislation as a power, but further details might be elaborated within FSA secondary legislation, if the market conditions impose it. For now, FSA decided not to detail those provisions.<sup>348</sup>
- RO had used this option in primary legislation as a power, but further details might be elaborated within FSA secondary legislation, if the market conditions impose it. For now, FSA decided not to detail those provisions.<sup>349</sup>
- RO had used this option in primary legislation as a power, but further details might be elaborated within FSA secondary legislation, if the market conditions impose it. For now, FSA decided not to define the standard format.<sup>350</sup>

#### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- RO had used this option. FSA complies with the guidelines, Rule no. 19/2018 was adopted in this regard.<sup>351</sup>

### SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

#### ARTICLE 1 AND 2 – SCOPE AND DEFINITIONS

- When the Insurance Mediation Directive was transposed in 2007 into Romanian law – Law no. 32/2000 regarding insurance activity and insurance supervision, stricter measures regarding the licensing of the insurance brokers and maintaining that licence were already in place and were retained.

The law transposing IDD replaced the former Law no. 32/2000, but has retained some of the national provisions that include:

- requirement for the brokers – legal persons to satisfy some preconditions in order to obtain the FSA license for distribution activity;
- obligations for the brokers and insurance undertakings to register the intermediaries with whom they collaborate directly, in the FSA intermediaries registers;
- requirement to notify the Romanian authority of any modifications of the initial authorisation and approvals of the management including the new appointments;

<sup>346</sup> Law no. 236/2018 regarding insurance distribution, Art. 13 - Informatiile privind conflictele de interese (Information on conflicts of interest) alin.(5).

<sup>347</sup> Law no. 236/2018 regarding insurance distribution, Art. 4 - Atributii ASF (FSA powers) alin. (23) lit. a), b), c), d) Art. 36 - Reglementari ASF (FSA regulations) alin. (2) lit. a) pct. (iii).

<sup>348</sup> Law no. 236/2018 regarding insurance distribution, Art. 4 - Atributii ASF (FSA powers) alin. (23) lit. a), b), c), d) Art. 36 - Reglementari ASF (FSA regulations) alin. (2) lit. a) pct. (iii).

<sup>349</sup> Law no. 236/2018 regarding insurance distribution, Art. 4 - Atributii ASF (FSA powers) alin. (23) lit. a), b), c), d) Art. 36 - Reglementari ASF (FSA regulations) alin. (2) lit. a) pct. (iii).

<sup>350</sup> Law no. 236/2018 regarding insurance distribution, Art. 36 - Reglementari ASF (FSA regulations) alin. (2) lit. b) pct. (i).

<sup>351</sup> Law no. 236/2018 regarding insurance distribution, Art. 27 - Evaluarea caracterului adecvat și corespunzător și raportarea către clienți (Assessment of suitability and appropriateness and reporting to customers) alin. (8).



- delegation of FSA powers regarding the professional training of the intermediaries to specialised entities;
- FSA license for the entities providing classes for the professional training;
- delegation of FSA powers to certify the completion of the training;
- starting the distribution activity is subject to the completion of an initial programme of professional training for intermediaries, proven by obtaining a certificate.

Some of the provisions (eg: delegation of FSA for the insurance undertakings and brokers to register the intermediaries, completion of initial and continuous trainings proven by certificates) corresponds to the IDD may provisions.

The above mentioned rules are applicable to local intermediaries and also to the FoE entities when they are collaborating with local secondary intermediaries, as they have to verify if the local intermediaries fulfil the local provisions and the FoE entities are responsible for the distribution activities of the local secondaries.<sup>352</sup>

- Within the framework of the primary legislation is made a clear distinction about the categories of intermediaries split in 2 main categories, based on art. 3 par. 1 subpar. 5 IDD:
  - principal intermediaries: the independent intermediaries, legal persons – brokerage companies, credit institutions and investment firms;
  - secondary intermediaries: the dependant intermediaries, legal and natural persons – agents, broker's assistants, auxiliary intermediaries.

According to the fact that in IDD provisions credit institutions and investment firms are exempted from the category of ancillary intermediaries, our national provisions give them 2 options regarding the insurance distribution activity:

- to act as principal intermediaries, similar to actual brokerage companies, where the customers' interests are their primary objectives, or
- to continue to act as secondary intermediaries, similar with insurance agents that are acting under the responsibility of an insurance undertaking.<sup>353</sup>

### ARTICLE 3 – REGISTRATION REQUIREMENTS

- The intermediaries registration is performed, according to the categories mentioned above and based on art. 3 par.1 by the following:
  - FSA – for the principal intermediaries, subsequent to the procurement of the licence certificate for the distribution activity;
  - Insurance undertakings or brokerage companies – for the secondary intermediaries, subsequent to the control of the requested conditions for the registration (including those from IDD).<sup>354</sup>
- One of the requirements for the brokerage companies to obtain the distribution licence is that the authorised capital value is no less than 150.000 ROL (approx. 32.500 EUR). This capital value condition is asked only for local brokers. Other stricter requirements are elaborated in detail within the frame of the secondary legislation, Rule no. 19/2018.<sup>355</sup>

<sup>352</sup> Law no. 236/2018 regarding insurance distribution Art. 1 – Domeniul de aplicare (Scope) alin.(1) lit. b)-c) Art. 4 - Atributii ASF (FSA powers) alin.(2) – (5), (28)- (38), (41)-(42)

<sup>353</sup> Law no. 236/2018 regarding insurance distribution, Art. 3 – Definitii (Definitions) alin.(1) pctele 15-16

<sup>354</sup> Law no. 236/2018 regarding insurance distribution, Art. 8 – Inregistrarea ca intermediar principal si secundar (Registration as principala or secondary intermediary) alin. (2) lit. a),b).

<sup>355</sup> Law no. 236/2018 regarding insurance distribution, Art. 9 – Conditii de inregistrare (Registration requirements) alin.(2) lit. d),e).

- Introduction of a separation between FoS and FoE by defining when the distributors' activity is exercised on a temporary basis. Foreign insurance distributors, including insurers carrying out activity in Romania on the basis of FoS need to meet certain requirements. Their cooperation with local intermediaries must be based on reverse solicitation and the duration of that cooperation cannot be more than three years.<sup>356</sup>

#### **ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS**

- National provisions in place, retained from the former legislation:
  - starting the distribution activity is subject to the completion of an initial programme of professional training for local intermediaries, proven by obtaining a certificate;
  - the completion of continuous training is also proved by obtaining a certificate.

The requirements regarding the local professional training are elaborated in detail within the frame of the secondary legislation, Rule no. 20/2018.<sup>357</sup>

- As mentioned above, the completion of continuous training is also proved by obtaining a certificate. The detailed provisions are elaborated within the framework of the secondary legislation.

Art. 4 par.12 - FSA establish and publish mechanisms for the evaluation of the knowledge and ability of the principal and secondary intermediaries and for examination of their professional training.

Art. 14 par.14 - FSA provides the training programmes resources adapted to the insurance products distributed.

Art. 10 par. 4 - insurance and reinsurance undertakings and intermediaries are responsible also for the training of their collaborators, the secondary intermediaries - they verify if the intermediaries comply with the professional training obligations in force and also they provide them, upon FSA authorization, the necessary training. As concern the principal intermediaries, the anterior obligations are fulfilled by FSA.<sup>358</sup>

- The distributors establish written policies to check the good repute of their employees and of their collaborators (insurance agents, auxiliary agents, etc.), the secondary intermediaries.<sup>359</sup>
- For the consumer protection, the measures taken were those corresponding to the letters a) and c) of the paragraph 6 of article 10 from IDD, within the national law. As a strengthened provision, the letter c) was detailed into national legislation regarding the sound financial situation of the insurance intermediaries, legal persons, which directly collect the insurance premiums. Similar to legal persons, the insurance intermediaries, natural persons, who collect insurance premiums on behalf of the insurance undertakings have to submit guarantees to the insurance undertakings.<sup>360</sup>

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<sup>356</sup> Norm 19/2018 of 29 November 2018.

<sup>357</sup> Law no. 236/2018 regarding insurance distribution, Art. 10 – Cerintele de competenta profesionala si probitate morala (Professional competence requirements and good repute) alin.(2).

<sup>358</sup> Law no. 236/2018 regarding insurance distribution, Art. 4 - Atributii ASF (FSA powers) alin.(12) Art. 10 - Cerinte de competenta profesionala si probitate morala (Professional competence requirements and good repute) alin.(4).

<sup>359</sup> Law no. 236/2018 regarding insurance distribution, Art. 10 – Cerintele de competenta profesionala si probitate morala (Professional competence requirements and good repute) alin.(8).

<sup>360</sup> Law no. 236/2018 regarding insurance distribution, Art. 11 – Cerinte organizatorice si de raportare (Organisational and reporting requirements) alin.(6)-(7).

## OTHER THEMES

- The insurance intermediaries from EU Member State carrying out insurance distribution through FoE on the Romanian territory shall comply with the Rule no.36/2015 approving the accounting regulation for insurance brokers, amended by Rule no. 5/2019
- According to the provisions of Rule no.18/2017 on the procedure for the settlement of petitions regarding the activity of insurance and reinsurance companies and insurance brokers, FSA receives complaints from the consumers of insurance products provided by national or foreign intermediaries operating cross-border.

FSA cooperates with other national competent authorities from the Home Member States of those reported entities in order to communicate a response to the claimants.

# SLOVAKIA

Single point of contact responsible for providing information on general good rules:

National Bank of Slovakia

General good rules published (for intermediaries):

<https://www.nbs.sk/en/financial-market-supervision1/supervision/financial-intermediation-and-financial-advisory-services>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN

- › Exercise of Member State option foreseen under 20(7), subparagraph 2.

#### ARTICLE 22 - INFORMATION EXEMPTIONS AND FLEXIBILITY CLAUSE

- › § 32: Reception of any remuneration both financial or nonfinancial, or payment from a (potential) client by an intermediary is forbidden.
  - § 33: All insurance products. Information addressed by an intermediary or advisor to a (potential) customer.
  - § 35: Information requirements and conduct of business rules: advice is provided prior to the conclusion of any contract, demands and needs test plus fair and personal analysis of client´s knowledge and experience with regard to the relevant financial service, financial situation (assessment of suitability) with all products and notification of suitability or warning if not suitable product. With IBIPs: advice is provided.<sup>361</sup>
- › Exercise of Member State option foreseen under 22(1), subparagraph 2.
- › Exercise of Member State option foreseen under 22(2), subparagraph 1-2.
- › Exercise of Member State option foreseen under 22(2), subparagraph 3.<sup>362</sup>

### ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

#### ARTICLE 29 – INFORMATION TO CUSTOMERS

- › Exercise of Member State option foreseen under 29(3), subparagraph 1-2.
- › Exercise of Member State option foreseen under 29(3), subparagraph 3.<sup>363</sup>
- › Exercise of Member State option foreseen under 29(3), subparagraph 4.

<sup>361</sup> Act no. 186/2009 Coll. on financial intermediation and financial advisory services: § 32 section 1; § 33 section 4, f), section 6, a); § 35 sections 1,2,3,6.

<sup>362</sup> Act no. 186/2009 Coll. on financial intermediation and financial advisory services: § 35 sections 1,2,3,6.

<sup>363</sup> All insurance products, IBIPs included. Act no. 186/2009 Coll. on financial intermediation and financial advisory services: § 35 sections 1,2,3,6.

## SLOVENIA

Single point of contact responsible for providing information on general good rules:

Insurance Supervision Agency

General good rules published (for undertakings):

<https://www.a-zn.si/wp-content/uploads/GeneralGood.pdf>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### **ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- AZN derogates from the obligations referred to in paragraph IDD 30/2, allowing insurance intermediaries or insurance undertakings to carry out insurance distribution activities within their territories without the need to obtain the information or make the determination provided for in IDD 30/2, where the conditions defined in IDD 30/3 are met (execution only sales).<sup>364</sup>

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<sup>364</sup> Insurance Act (ZZavar-1), art. 528d/6.

## SPAIN

Single point of contact responsible for providing information on general good rules:

Directorate-General for Insurance and Pension Funds

General good rules published (for undertakings):

<http://www.dgsfp.mineco.es/es/Regulacion/DocumentosRegulacion/MEDIATION%2oGENERAL%2oGOOD%2oPROVISIONS%2oES.pdf>

### General remarks

Spain has not yet implemented the IDD. Therefore, Spain has yet to publish general good rules implementing the IDD. However, Spain has existing general good rules implementing the IMD which will continue to be applicable in Spain until they are changed as part of the transposition of the IDD (see below).

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

- The Law 26/2006 of insurance and reinsurance intermediation sets out the prohibitions and obligations for insurance intermediaries. For example, insurance intermediaries have to offer truthful and sufficient information about the insurance contract (promotion, offer and subscription).<sup>365</sup>

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<sup>365</sup> Law 26/2006 of insurance and reinsurance intermediation.

## SWEDEN

Single point of contact responsible for providing information on general good rules:

Financial Supervisory Authority

General good rules published (for undertakings and intermediaries):

<https://www.fi.se/en/insurance/apply-for-authorisation/notification/>

### ANALYSIS OF GENERAL GOOD RULES

#### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

##### **ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING**

- › National provision requires that this information is provided before an insurance agreement is entered.<sup>366</sup>
- › Parallell legal structures which regulate what information to give customers before signing an insurance agreement.<sup>367</sup>
- › Parallell legal structures which regulate what information to give customers before signing an insurance agreement.<sup>368</sup>

##### **ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY**

- › The provision imposes an obligation on the intermediary to provide general information that goes beyond the IDD as to which remuneration the intermediary receives for the insurance contract. In addition, the customer shall receive information about who is providing the compensation and how large the compensation is. If this is not possible, the customer shall be informed of the basis for calculating the compensation.<sup>369</sup>
- › Detailed provisions regarding information to customer.<sup>370</sup>

##### **ARTICLE 20 - ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- › The national provision differs from IDD in two perspectives. Firstly it prohibits intermediaries to let advise on the basis on of fair and personal analysis include their own products or products of an entity with close links with the intermediary, while the IDD only says that it shall not be limited to such products. Secondly the national provision applies to all insurance distribution and not just IBIPS.<sup>371</sup>

<sup>366</sup> FFFS 2011:39 3 kap 1 § 2 p.

<sup>367</sup> Insurance agreement act (2005:104), chapter 2.

<sup>368</sup> Insurance agreement act (2005:104), chapter 10.

<sup>369</sup> Chapter 5 paragraph 7 lagen (2018:1219) om försäkringsdistribution.

<sup>370</sup> FFFS 2018:10 Chapter 11.

<sup>371</sup> Chapter 4 paragraph 2 lagen (2018:1219) om försäkringsdistribution.

## ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS

### ARTICLE 29 – INFORMATION TO CUSTOMERS

- › National provisions contains more details about which information that needs to be given to the customer regarding the insurance agreement.<sup>372</sup>
- › The information referred to in Articles 29 and 30 of the IDD need not be provided to a professional client as defined in point (10) of Article 4(1) of MiFID II if the parties agree on this.<sup>373</sup>
- › Use of option, which results in restrictions for remunerations to and from a third party that are more explicit than what the IDD states.<sup>374</sup>

### ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS

- › Detailed provisions regarding IBIPs.<sup>375</sup>

## SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS

### ARTICLE 3 – REGISTRATION REQUIREMENTS

- › Use of option, resulting in that an insurance or reinsurance undertaking or other intermediary shall be responsible for ensuring that the insurance or reinsurance intermediary or ancillary insurance intermediary meets the conditions for registration, if they intend to be tied intermediaries to an insurance undertaking or another intermediary. The insurance or reinsurance undertaking or other intermediary which takes responsibility for the tied insurance or reinsurance intermediary or ancillary insurance intermediary is also the one who shall register that intermediary or ancillary intermediary with the Swedish Companies Registration Office (Bolagsverket).<sup>376</sup>
- › Use of option, resulting in that insurance or reinsurance undertakings or intermediaries is to verify that the knowledge and ability of the intermediaries (employees) is relevant and adequate.<sup>377</sup>
- › Use of option, resulting in that insurance or reinsurance distributors are obliged to check the good repute of its employees and, where appropriate, of its insurance or reinsurance intermediaries.<sup>378</sup>

### ARTICLE 10 – PROFESSIONAL AND ORGANISATIONAL REQUIREMENTS

- › The requirements in the provision are stricter than the IDD in the sense that they apply to all insurance distributors and not just insurance and reinsurance undertakings.<sup>379</sup>

<sup>372</sup> FFFS 2011:39 bilaga 2 p A.

<sup>373</sup> Chapter 1 paragraph 8 lagen (2018:1219) om försäkringsdistribution.

<sup>374</sup> Chapter 6 paragraph 9 lagen (2018:1219) om försäkringsdistribution.

<sup>375</sup> FFFS 2018:10 Chapter 13.

<sup>376</sup> Chapter 2 paragraph 4 lagen (2018:1219) om försäkringsdistribution.

<sup>377</sup> Chapter 2 paragraph 8 lagen (2018:1219) om försäkringsdistribution Finansinspektionens regulatory code FFFS 2018:10, chapter 3 paragraph 2.

<sup>378</sup> Same as Article 10(2), sp4.

<sup>379</sup> Chapter 4 paragraph 6 lagen (2018:1219) om försäkringsdistribution.



#### **ARTICLE 14 – COMPLAINTS**

- › Detailed provisions regarding customer complaints handling.<sup>380</sup>

#### **OTHER THEMES**

- › Marketing prohibitions: Certain marketing conditions.<sup>381</sup>
- › Pension insurance: The whole provision is new in relation to IDD. The paragraph contains certain rules that apply on distribution of pension insurance exposed to market volatility, like the IBIPS are. Therefore, many of the provisions in that apply for IBIPS also apply for distribution of pension insurance exposed to market volatility.<sup>382</sup>
- › Detailed provisions regarding documentation.<sup>383</sup>
- › Price and replacement information.

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380 FFFS 10 kap Klagomålshandtering.

381 Chapter 4 p. 4 lagen (2018:1219) om försäkringsdistribution.

382 Chapter 7 paragraph 1 lagen (2018:1219) om försäkringsdistribution, Chapter 14 paragraph 2, FFFS 2018:10.

383 Chapter 12, FFFS 2018:10.

## UK

Single point of contact responsible for providing information on general good rules:

Financial Conduct Authority (FCA)

General good rules published (for incoming EEA undertakings and intermediaries):

<https://www.handbook.fca.org.uk/handbook/SUP/13A/Annex1.html>

## ANALYSIS OF GENERAL GOOD RULES

### INFORMATION REQUIREMENTS AND CONDUCT OF BUSINESS RULES

#### ARTICLE 17 – GENERAL PRINCIPLE

- High level requirements under the FCA's Principles for Business (PRIN) are applied to firms so far as responsibility for the matter in question is not reserved to the firm's Home State regulator.

#### ARTICLE 18 – GENERAL INFORMATION PROVIDED BY THE INSURANCE INTERMEDIARY OR INSURANCE UNDERTAKING

- Existing FCA rules which contain additional obligations/detail have been retained to maintain consumer protection.<sup>384</sup>
- There are provisions which have been implemented to require insurance distributors to make certain disclosures as specified by the IDD. Article 18 is applied in full to IDD ancillary insurance intermediaries (AIs)<sup>385</sup>.

#### ARTICLE 19 – CONFLICTS OF INTEREST AND TRANSPARENCY

- Requirements for insurance intermediaries to make certain disclosures and is applied in full to AIs.<sup>386</sup>
- This provision applies to all insurance intermediaries and AIs. We are maintaining pre-IDD requirements which go beyond the IDD minimum requirements in the following ways:
  - requiring firms to make clear whether they are providing advice or just information;
  - distinguishing between advice that is a personal recommendation and other advice<sup>387</sup>.

<sup>384</sup> See for example COBS 6.1ZA.7A R

<sup>385</sup> ICOBS 4.1.2 R and COBS 6.1ZA.7BR

<sup>386</sup> ICOBS 4.1.6 R and COBS 6.1ZA.7CR

<sup>387</sup> ICOBS 4.1.7 R

**ARTICLE 20 – ADVICE, AND STANDARDS FOR SALES WHERE NO ADVICE IS GIVEN**

- Existing FCA rules that are not replicated in the IDD and/or the IBIP regulation have been retained to maintain levels of consumer protection. For example requirements for firms to disclose certain information about client money arrangements<sup>388</sup> and informing customers of any changes to information provided as part of insurance distribution activity.<sup>389</sup>
- We are maintaining pre-IDD requirements, additional to IDD, applying to the distribution of life insurance protection products (which are not IBIPs). These for example include:
  - for non-advised sales, firms are required to make additional disclosures.<sup>390</sup>
  - additional steps which firms must take when assessing whether the product is right for the customer.<sup>391</sup>
  - for the distribution of insurance products as part of a packaged bank account (PBA):
    - to assess the customer's eligibility to receive a benefit from each element of the package, and inform the customer accordingly.<sup>392</sup>
    - to keep a record of their eligibility assessments.<sup>393</sup>
    - to provide customers with an ongoing statement of eligibility for the benefits provided by the PBA; in particular in relation to travel insurance.<sup>394</sup>
    - to ensure the suitability of advice on a policy sold as part of a PBA.<sup>395</sup>
- We are also maintaining the pre-IDD requirement in relation to:
  - the suitability of advice for any customer entitled to rely on its judgement.<sup>396</sup>
  - sales which involve advice that is not a personal recommendation.<sup>397</sup>
  - certain life insurance products other than IBIPs:
    - requiring that the information disclosed under IDD Article 20(4) is provided in a standardised format.<sup>398</sup>
    - requiring additional disclosures where the policy is paid for using a separate credit agreement.<sup>399</sup>
  - sales standards for Guaranteed Asset Protection insurance, renewal business and optional additional products have been retained.<sup>400</sup>

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388 COBS 6.1ZA.10A R

389 COBS 6.1ZA.20A R

390 ICOBS 4.2.4R

391 ICOBS 5.1.2 R

392 ICOBS 5.1.3A R

393 ICOBS 5.1.3BR

394 ICOBS 5.1.3C R

395 ICOBS 5.3.2A R

396 ICOBS 5.3.1 R

397 ICOBS 5.3.3 R.

398 ICOBS 6.4.4 R.

399 ICOBS 6.4.9R.

400 ICOBS 6.5.1R; ICOBS 6A.1.1R; ICOBS 6A.1.4 R; ICOBS 6A.1.6 R; ICOBS 6A.1.7 R; ICOBS 6A.2.1R.

**ARTICLE 25 – PRODUCT OVERSIGHT AND GOVERNANCE REQUIREMENTS**

- There are additional obligations for insurance product manufacturers and distributors which include levelling to MiFID II product governance requirements not found in the IDD. This for example includes:
  - a rule that extends the requirement in Article 3(4) of the delegated act on product governance and oversight to cover cases where a firm collaborating on the creation of a product is not subject to this Directive.<sup>401</sup>
  - consideration of product charging structures to ensure that firms pay due regard to this aspect of product design for insurance products, and to create a level playing field with MiFID products.<sup>402</sup>
  - to make available to any distributor information about the target market assessment.<sup>403</sup>
  - to take reasonable steps to obtain information on the product's design (as set out in the product governance requirements) when distributing products that were not manufactured by a firm to which the requirements apply.<sup>404</sup>

**ADDITIONAL REQUIREMENTS IN RELATION TO INSURANCE-BASED INVESTMENT PRODUCTS****ARTICLE 28 – CONFLICTS OF INTEREST**

- Conflicts of interest provisions are applied to the distribution of all insurance products, not just to IBIPs<sup>405</sup>. In addition where MiFID II conflicts of interests requirements or existing standards go beyond the IDD these standards are applied in relation to insurance distribution as well to create a level playing field of consumer protections and to avoid competitive distortions.<sup>406</sup>

**ARTICLE 29 – INFORMATION TO CUSTOMERS**

- Similar to information requirements under article 18 of the IDD, existing FCA rules have been retained where these are not replicated in the IDD or the delegated acts.<sup>407</sup>
- Certain MiFID II requirements have been applied in relation to IBIPs where these are stricter than IDD. This will provide equivalent standards are applied by firms distributing both IBIPs and MiFID products..
- The UK also has existing stricter rules on the acceptance of fees commission or non-monetary benefits which have been retained.<sup>408</sup> The rules limit the way in which distributors may be remunerated for advice on life policies.<sup>409</sup>

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401 PROD 4.2.14 R.

402 PROD 4.2.25R.

403 PROD 4.2.32R.

404 PROD 4.3.3 R

405 SYSC 10.1

406 See for example SYSC 10.1.4B R

407 For example COBS 6.1ZA.15A R

408 COBS 2.3A.5 R; COBS 2.3A.6 R; COBS 2.3A.8 R; COBS 2.3A.9 R; COBS 2.3A.12 R; COBS 2.3A.13 R; COBS 2.3A.14 R; COBS 2.3A.15 R; COBS 2.3A.16 R

409 COBS 6.1A.4R; COBS 6.1A.4A R; COBS 6.1A.4B R; COBS 6.1A.5A R; COBS 6.1A.9R; COBS 6.1A.11R; COBS 6.1A.14R; COBS 6.1A.14A R; COBS 6.1A.17R; COBS 6.1A.22R; COBS 6.1A.24R; COBS 6.1A.27R

**ARTICLE 30 – ASSESSMENT OF SUITABILITY AND APPROPRIATENESS AND REPORTING TO CUSTOMERS**

- Firms are required to meet a 5-year minimum term for retention of records about suitability and appropriateness (which may exceed the retention period under the IDD delegated act).<sup>410</sup>
- Existing rules requiring firms to assess suitability when providing personal recommendations in relation to non-IBIP life policies to retail customers have been retained<sup>411</sup>.

**SCOPE, REGISTRATION AND ORGANISATIONAL REQUIREMENTS**

- The UK has a number of requirements that apply across most areas of financial services for example in relation to compensation, complaints, and where a firm has taken responsibility in relation to another intermediary<sup>412</sup>.
- Firms may not permit persons who perform certain specific functions, which are set out in rules, unless they have been approved<sup>413</sup>. This will include:
  - meeting the requirements of our 'fit and proper' test and follow its principles
  - complying with the Statements of Principle and Code of Practice
  - reporting anything that could affect their ongoing suitability to the regulator and the authorised firm.

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410 SYSC 3,3,17R & 9.1.2A R

411 COBS 9

412 COMP, DISP, SUP 12

413 Part V FSMA; SUP 10A, 10B, 10C

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