

Conditions Attached to Operations by Way of the Freedom to Provide Services in Latvia

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

I. Insurance Supervision

The authority responsible for supervising the insurance business in Latvia is Latvijas Banka (the Central Bank of Latvia). Its address is as follows:

Latvijas Banka
K. Valdemara iela 2A, Riga, LV-1050
Phone: +371 6702 2300
E-mail: info@bank.lv, single.passport@bank.lv
Official website: www.bank.lv

II. Legislative Requirements

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

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

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

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

1.2. Professional and organisational requirements

1.2.1. Good Repute (Article 10 (3) subparagraph 1 of IDD)

In accordance with Article 19 of IRDL 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.

In accordance with Article 21, Paragraph two of IRDL 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 Article 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.

1.2.2. Internal Procedures (Article 10 (8) of IDD)

In accordance with Article 24 of IRDL 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 Latvijas Banka 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 Latvijas Banka 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.

1.3. General information provided by the insurance distributor (Article 18 of IDD)

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

1.4. Information exemptions and flexibility clause (Article 22 (1) of IDD)

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

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

1.5. Cross-selling (Article 24 (7) of IDD)

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

1.6. Assessment of suitability and appropriateness and reporting to customers (Article 30 (3) of IDD)

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

- 1) the insurance investment product is related to an investment in simple financial instruments in accordance with Article 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 merchant, a branch of foreign insurer or insurance intermediary shall comply with the provisions of Article 42 of this Law in relation to the prevention of a conflict of interest.

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

In accordance with Article 65, Paragraph one, Point 7-9 of IRDL Latvijas Banka shall be entitled to impose sanctions and supervisory measures:

- 7) an insurance merchant, a branch of foreign insurer or insurance broker that does not comply with the provisions of Article 18 (4) and (5) of this Law;
- 8) an insurance merchant, a branch of foreign insurer, or insurance or reinsurance intermediary that does not comply with the regulatory provisions regarding the prevention of money laundering and terrorism financing;
- 9) an insurance distributor that does not comply with the provisions of Article 5(1), Articles 6 and 7, Article 8(1), (2) and(3), Article 9, Article 10(1), Article 13(1), (3) and(4), Articles 14 and 19 the Regulation No 1286/2014.

1.7. Reporting of breaches (Article 35 of IDD)

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

2. Insurance Legislation

2.1. The Insurance Contract Law (available on the official website of Latvijas Banka in English: www.bank.lv)

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

2.2. Compulsory insurance

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

Class 2. Sickness

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

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

Class 15. Suretyship

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

3. Consumer Protection

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

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

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

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

4. Data Protection

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

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

5. Parafiscal charge

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

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

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

6. Taxes

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

The State Revenue Service is a state institution which ensures the accounting of tax payments and taxpayers, the collection of taxes, duties and other mandatory payments specified by the State in the territory of the Republic of Latvia, collects taxes, duties and other mandatory payments into the budget of the European Union and implements the customs policy and organizes customs matters.

Website- www.vid.gov.lv/en

Latvian tax legislation does not provide for VAT (Value Added Tax) on premiums collected under insurance contracts.

For more detailed information on tax regime in relation to cross-border services, please, refer to the State Revenue Service.

7. Other Provisions

Furthermore, Latvijas Banka would like to draw your attention to the following general legislation:

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

Apart from that, we would like to note that the insurer exercising the freedom to provide services in Latvia has to follow other requirements that have not been referred to above, but are provided for in the Latvian legislation applicable to the insurer exercising the freedom to provide services in Latvia.