

Information on legal provisions governing the insurance business in the Principality of Liechtenstein

Information sheet for insurance undertakings whose head office is situated in a Contracting Party to the Agreement on the European Economic Area (EEA Agreement)

1. Supervision law

The Law of 6 December 1995 on the Supervision of Insurance Undertakings (Insurance Supervision Act, ISA; Liechtenstein Law Gazette LGBl. 1996 No. 23) and the Ordinance of 17 December 1996 on the Law on Supervision of Insurance Undertakings (Insurance Supervision Ordinance, ISO; LGBl. 1997 No. 41) set out the legal preconditions of insurance supervision for assuming business activities in Liechtenstein. The Ordinance of 21 December 2004 on the Levy of Supervision Taxes and Fees pursuant to the Financial Market Authority Act (FMA Fee Ordinance; LGBl. 2004 No. 288) governs the payment of fees.

2. Contract law and procedural law

The provisions of the Law of 16 May 2001 on Insurance Contracts (Insurance Contract Act, ICA; LGBl. 2001 No. 128), in force since 1 January 2002, supplemented by the provisions of the General Civil Code (ABGB) shall be observed. Moreover, the Law of 23 October 2002 on the Protection of Consumers (Consumer Protection Act, CPA; LGBl. 2002 No. 164) shall be taken into account.

Within the scope of international private law, the Law of 13 May 1998 on International Insurance Contract Law (IICA; LGBl. 1998 No. 120) and subsidiarily the Law of 19 September 1996 on International Private Law (International Private Law Act, IPLA; LGBl. 1996 No. 194) apply.

For legal matters arising from insurance contracts, any agreement before a foreign court is invalid if the policyholder lives in Liechtenstein or if the insured interest is situated in Liechtenstein. Vaduz is the venue for such legal matters. Jurisdiction is therefore exclusive and cannot be modified by the parties (article 53, paragraph 3 of the Jurisdiction Rules, LGBl. 1912 No. 9/2).

3. Overview of compulsory insurances

The most important compulsory insurances in Liechtenstein are buildings insurance, motor vehicle liability insurance, health insurance, accident insurance, and occupational pensions.

If an insurance undertaking whose head office is in a Contracting Party to the EEA Agreement intends to offer compulsory insurance in Liechtenstein by way of an establishment or cross-border provision of services, then the following special provisions must be observed:

- *Buildings insurance:*

The applicable special enactments govern compulsory buildings insurance: the Law of 26 November 2004 on Insurance Protection for Buildings against Damage caused by Fire and Natural Forces (Buildings Insurance Act, BIA; LGBl. 2005 No. 20) and the associated ordinance (Buildings Insurance Ordinance, BIO; LGBl. 2005 No. 21).

Buildings located in Liechtenstein must be insured against damage arising from fire and natural forces (article 1, paragraph 1 BIA). Only temporary buildings and buildings with a replacement value less than CHF 10,000 are exempt from the insurance requirement (article 2 BIA). In general, buildings are insured at replacement value, in some cases however at other values (current value, increasing value, or demolition value) (article 6 BIA). These insurance values are determined and fixed by recognized valuation experts in accordance with the provisions of the Ordinance of 16 July 1974 on Official Real Estate Estimates (LGBl. 1974 No. 45) (article 7, paragraph 1 BIA in conjunction with article 8, paragraph 1 BIO).

The compulsory insurance is set out in a contract between the Government of Liechtenstein and the insurance undertakings offering buildings insurance in Liechtenstein (article 8, paragraph 1 BIA). Accordingly, all insurance undertakings offering buildings insurance in Liechtenstein are required to (counter-)sign this execution contract.

Moreover, both the scope of coverage and the premium rates for buildings insurance are uniform and binding. The premium rates are approved by the Financial Market Authority (FMA) Liechtenstein and must be communicated to policyholders separately and numerically in the insurance policy (article 8, paragraph 2 BIA in conjunction with article 9, paragraph 3 BIO).

- *Motor vehicle liability insurance:*

If an insurance undertaking whose head office is in a Contracting Party to the EEA Agreement intends to offer compulsory motor vehicle liability insurance by way of an establishment or free movement of services, it must submit a declaration that it has become a member of the National Bureau of Insurance and the National Guarantee Fund. In the case of free movement of services, it must also appoint a representative

located in Liechtenstein responsible for processing claims (article 28, paragraph 2(g) and article 48 ISA; articles 10, 48, and 49 ISO).

With respect to compulsory motor vehicle liability insurance, the ISA and the ISO are subject to the applicable special laws and ordinances, especially the Road Traffic Act (RTA, LGBl. 1978 No. 18) and the Traffic Insurance Ordinance (TIA, LGBl. 1978 No. 21) (article 3, paragraph 3 ISA).

- *Health insurance:*

With respect to health insurance, the legislation on health insurance shall be observed, the provisions of which necessarily apply to all health insurance contracts (article 8, paragraph 1 ISA; see the Law of 24 November 1971 on Health Insurance (Health Insurance Act, HIA; LGBl. 1971 No. 50) and the Ordinance of 14 March 2000 on the Law on Health Insurance (Health Insurance Ordinance, HIO; LGBl. 2000 No. 74).

According to the HIA, a distinction is made between compulsory insurance (healthcare costs, daily allowances for sickness) and voluntary insurance (benefits exceeding those covered by compulsory insurance). Only recognized health insurance schemes may provide compulsory health insurance pursuant to the HIA (healthcare costs, daily allowances for sickness).

- *Compulsory accident insurance:*

Insurance undertakings intending to provide compulsory accident insurance (against industrial injuries, non-industrial injuries, occupational diseases) are additionally subject to the legislation on compulsory accident insurance (article 9, paragraph 1 ISA; see the Law of 28 November 1989 on Compulsory Accident Insurance, LGBl. 1990 No. 46, and the Ordinance of 4 September 1990 on Compulsory Accident Insurance, LGBl. 1990 No. 70). In particular, these companies must sign the existing contractual agreements between the State of Liechtenstein and the insurance undertakings providing compulsory accident insurance.

4. Requirement to submit general and special insurance conditions

Insurance undertakings whose head office is in a Contracting Party of the EEA Agreement offering health insurance or other compulsory insurance in Liechtenstein by way of an establishment or cross-border provision of services are required to submit their general and special insurance conditions prior to use to the Financial Market Authority (FMA) as the competent insurance supervision authority (article 28, paragraph 3 and article 30, paragraph 3 ISA).

5. Information requirements

Prior to conclusion and during the term of insurance contracts, insurance undertakings must communicate specific information to policyholders. The content and scope of

these information requirements are governed by Annex 4 of the ISA (articles 45 and 49 ISA).

6. General terms and conditions

With respect to clauses in boilerplate general terms and conditions, §§ 864a and 879, paragraph 3 of the General Civil Code must be observed.

Abusive clauses used in the boilerplate general terms and conditions of consumer contracts are dealt with according to article 8 of the Law of 22 October 1992 against Unfair Competition (Unfair Competition Act, UCA; LGBl. 1992 No. 121) and article 8 of the Consumer Protection Act (CPA).

Article 8, paragraph 1 CPA contains a catalogue of clauses that are non-binding in all cases. The clauses enumerated in article 8, paragraph 2 CPA are only non-binding if the user of the general terms and conditions does not show that the clauses have been negotiated individually.

7. Occupational retirement provision

Insurance undertakings reinsuring institutions for occupational retirement provision within the meaning of the Law of 20 October 1987 on Occupational Pensions (Occupational Pensions Act, OPA; LGBl. 1988 No. 12) must provide these institutions with the necessary information for them to meet their legal information requirements. The insurance undertakings must in particular transmit an annual, comprehensible statement on profit participation and a compilation of administrative costs (article 13, paragraph 5, article 19a, paragraph 4, and article 20, paragraph 7 OPA in conjunction with article 17 of the Ordinance of 20 December 2005 on the Occupational Pensions Act, OPO; LGBl. 2005 No. 288).

Life insurance undertakings offering occupational retirement provision within the meaning of the Law of 24 November 2006 on the Supervision of Institutions for Occupational Retirement Provision (Pension Funds Act, PFA; LGBl. 2007 No. 11) must comply with the requirements under the PFA (article 10, paragraph 2 ISA).

8. Due Diligence Act

Insurance undertakings providing direct life insurance must comply with the professional due diligence obligations for insurance transactions (Law of 26 November 2004 on Professional Due Diligence in Financial Transactions [Due Diligence Act; DDA], LGBl. 2005 No. 5, and the Ordinance of 11 January 2005 on the Due Diligence Act [Due Diligence Ordinance, DDA], LGBl. 2005 No. 6).

9. Tax on insurance premiums (insurance tax)

Premium payments for insurance are in principle subject to a stamp duty pursuant to the Swiss Federal Law on Stamp Duties (Stamp Duties Act), which is applicable in Liechtenstein. The premium payments exempt from the stamp duty are exhaustively enumerated in article 22 of the Stamp Duties Act. In particular, premium payments for certain life insurance policies are exempt from the stamp duty, such as those concluded by policyholders residing abroad (see article 22, subparagraph a^{ter} of the Stamp Duties Act). The stamp duty is calculated on the basis of the premium payable and amounts to 5% for non-life and asset insurance policies and 2.5% for life insurance policies (see article 24 of the Stamp Duties Act).

The stamp duty arises with the payment of the premium. The stamp duty is due 30 days after expiry of the quarter in which the premium is paid. By this deadline, the stamp duty must be declared by means of the requisite official form and paid without notice (see articles 23 and 26 and article 34, paragraph 2 of the Stamp Duties Act).

Either the domestic insurance undertaking or, in the case of an insurance contract concluded with a foreign insurance undertaking, the domestic policyholder must pay the stamp duty (see article 21 of the Stamp Duties Act). The stamp duties may be paid to the Liechtenstein Fiscal Authority or the Liechtenstein Office of Financial Accounting. Before insurance products may be offered in Liechtenstein, the insurers must register without notice with the Liechtenstein Fiscal Authority and provide the following information:

Name and head offices of the business and any branch offices in Liechtenstein, the accounting year, the date of assumption of business activities, and the insurance classes to be offered. Changes to this information once the insurer has become subject to the stamp duty must be submitted to the Liechtenstein Fiscal Authority without notice.

The stamp duty forms and the relevant legal provisions may be obtained from the Swiss Federal Tax Administration (see below) or from the:

Liechtenstein Fiscal Authority
Lettstrasse 37
9490 Vaduz
Liechtenstein

Tel. + 423 236 6817
Fax + 423 236 6830

The registration and requisite information must be submitted to the:

Swiss Federal Tax Administration
Direct Federal Tax, Withholding Tax, Stamp Duties Division
Eigerstrasse 65

3003 Berne
Switzerland
Tel. + 41 31 322 7211
Fax + 41 31 322 7870

10. Obtaining Liechtenstein Law Gazettes

All legal enactments mentioned above may be obtained from the following address:

Government Chancellery
9490 Vaduz
Liechtenstein
Tel. + 423 236 6030
Fax + 423 236 6597

or <http://www.gesetze.li>

11. General information

Additional information is available from:

Financial Market Authority Liechtenstein (FMA)
Heiligkreuz 8
9490 Vaduz
Liechtenstein
Tel. + 423 236 7373
Fax + 423 236 7374

or <http://www.fma-li.li>

Insurance and Pension Funds Supervision

Direct line: + 423 236 73 77

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