

Instructions

Agreement on outsourcing of functions

These instructions contain only a brief overview of the content requirements for an agreement on outsourcing of functions. In actual cases, the legal provisions and the orders issued by the supervisory authority shall apply exclusively. The FMA is available for any further questions.

1. Legal foundations

According to article 13, paragraph 1(j) of the Insurance Supervision Act (ISA), business activities such as sales, portfolio administration, processing of benefits, and asset management may be transferred in whole or in part to another undertaking (outsourcing of functions); however, the main administration of the insurance undertaking must remain in Liechtenstein. Such outsourcing requires a written agreement and approval by the supervisory authority.

To the extent that it is relevant to the assessment of the business activities of an insurance undertaking, third parties are also subject to the information and submission requirement with respect to such agreements on outsourcing of functions. The (Liechtenstein) supervisory authority may issue the requisite orders vis-à-vis such third parties in connection with the outsourcing of functions.

2. Requisite content of the agreement

The supervisory authority requires that the following be included in the content of the agreement:

- Written understanding that the accepting undertaking agrees to follow all the instructions of the transferring undertaking issued in connection with the outsourced business activities
- Upon request, the accepting undertaking must present all books, receipts, and documents to the transferring undertaking and provide information on business activities and finances, to the extent this is necessary for a comprehensive assessment of the fulfillment of the outsourced business activities
- Maintenance of insurance secrecy (article 44 ISA), especially also securing protection from unauthorized access to the data of the transferring undertaking
- At all times comprehensive right of the Liechtenstein supervisory authority to obtain access and information from the accepting undertaking

- Compensation rules
 - Term of contract (with cancellation clauses)
 - Where called for, applicability of Liechtenstein law
 - Where called for, jurisdictional venue in Vaduz
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