

Information on legal provisions governing the insurance mediation activity in the Principality of Liechtenstein within the framework of the free movement of services and/or by freedom of establishment

Information sheet for insurance intermediaries 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 17 May 2006 on Insurance Mediation (Insurance Mediation Act, IMA; Liechtenstein Law Gazette LGBl. 2006 No. 125) and the Ordinance of 27 June 2006 on Insurance Mediation (Insurance Mediation Ordinance, IMO; LGBl. 2006 No. 136) set out the legal preconditions of insurance mediation for assuming business activities in Liechtenstein.

2. Contract law and procedural law

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 19 September 1996 on International Private Law (International Private Law Act, IPLA; LGBl. 1996 No. 194) applies.

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 53a, paragraph 3 of the Jurisdiction Rules, LGBl. 1912 No. 9/2).

3. Establishments of foreign insurance intermediaries

Insurance intermediaries whose head office is abroad and who maintain a branch in Liechtenstein must have that branch entered in the Public Registry in accordance with article 240 of the Law on Persons and Companies (PGR; LGBl. 1926 No. 4).

4. Overview of compulsory insurance

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

If an insurance intermediary whose residence or registered office is in another Contracting Party to the EEA Agreement intends to mediate compulsory insurance by virtue of free movement of services and/or freedom of establishment in the Principality of Liechtenstein the following provisions must be observed:

– *Compulsory buildings insurance:*

The applicable special enactments governing 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). The scope of coverage and the premium rates for insurance against natural forces are uniform and binding (article 8, paragraph 2 BIA).

– *Compulsory motor vehicle liability insurance:*

With respect to compulsory motor vehicle liability insurance, the legislation of the special laws and ordinances, in particular the Road Traffic Act (RTA; LGBl. 1978 No. 18) and the Traffic Insurance Ordinance (TIA; LGBl. 1978 No. 21), shall be observed.

– *Health insurance legislation:*

With respect to health insurance, the legislation on health insurance shall be observed, the provisions of which necessarily apply to all health insurance contracts (see the Health Insurance Act, HIA; LGBl. 1971 No. 50, and the 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 intermediaries intending to mediate compulsory accident insurance (against industrial injuries, non-industrial injuries, occupational diseases) have to observe the legislation on compulsory accident insurance (see the Law on Compulsory Accident Insurance, LGBl. 1990 No. 46, and the Ordinance on Compulsory Accident Insurance, LGBl. 1990 No. 70).

– *Occupational pensions:*

With respect to occupational pensions, the Law of 20 October 1987 on Occupational Pensions (Occupational Pension Act, OPA, LGBl. 1988 No. 12) and the Ordinance of 20 December 2005 on the Occupational Pensions Act (Occupational Pension Ordinance, OPO, LGBl. 2005 No. 288) shall be observed.

5. Information requirements

Prior to the conclusion of the first insurance contract, the insurance intermediary shall provide the policy holder with at least the following information (article 13 IMA):

- a) his identity and address;
- b) the designation of the register in which he has been registered and the means of verifying register entries free of charge on the Internet or for a fee by means of a register extract compiled by the FMA;
- c) whether he will work as a broker or as an agent;
- d) the methods for registering complaints concerning insurance mediation; and
- e) any economic links with insurance undertakings.

Upon amendment or renewal of the insurance contract or upon conclusion of additional insurance contracts, the information shall only be provided again if its content has changed in the meantime.

The insurance intermediary shall be required to advise the policy holder before concluding an insurance contract and to disclose on which basis the advice is carried out (article 14 IMA).

Prior to the conclusion of any specific contract, the insurance intermediary shall at least specify, in particular on the basis of information provided by the policy holder, the demands and the needs of that policy holder as well as the underlying reasons for any advice given to the policy holder on a given insurance product. These details shall be modulated according to the complexity of the insurance contract being proposed.

In addition, the insurance intermediary shall inform the policy holder whether he:

- gives advice based on the obligation to provide a fair analysis; or
- is under a contractual obligation to conduct insurance mediation business exclusively with one or more insurance undertakings. In that case, he shall, at the policy holder's request, also provide the names of those insurance undertakings; or
- is not under a contractual obligation to conduct insurance mediation business exclusively with one or more insurance undertakings and does not give advice based on the obligation to provide a fair analysis. In that case, he shall, at the policy holder's request, provide the names of the insurance undertakings with which he may and does conduct business.

In those cases where the information is to be provided solely at the policy holder's request, the policy holder shall be informed that he has the right to request such information.

When the insurance intermediary informs the policy holder that he gives his advice on the basis of a fair analysis, he is obliged to give that advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market, to enable him to make a recommendation, in accordance with professional criteria, regarding which insurance contract would be adequate to meet the policy holder's needs.

The insurance intermediary shall provide the information under articles 13 and 14 to the policy holder:

- a) on paper in writing or on any other durable medium available and accessible to the policy holder;
- b) in clear and accurate language and presentation, comprehensible to the policy holder; and
- c) in German or in another language agreed with the policy holder.

The information may be provided orally if the policy holder requests it, or where and to the extent that the insurance mediation refers to a contract for provisional cover. In those cases, the information shall be provided to the customer in writing immediately after the conclusion of the insurance contract.

In the case of telephone selling, the information provided to the policy holder before conclusion of the contract shall comply with the provisions of the Distance Financial Services Act (Liechtenstein Law Gazette LGBl. 2005 No. 36). The information shall be provided in writing immediately after the conclusion of the insurance contract.

6. Due Diligence Act

According to article 3, paragraph 2, Liechtenstein branches of insurance brokers holding a license for the mediation of life insurance policies and other services for the purpose of investment fall within the scope of application of the Due Diligence Act (Law of 11 December 2008 on Professional Due Diligence to Combat Money Laundering, Organized Crime, and Terrorist Financing, DDA; LGBl. 2009 No. 47). According to article 5, paragraph 2 DDA, the persons subject to due diligence must in particular identify and verify the identity of the contracting party and the beneficial owner, establish a business profile, and ensure risk-adequate monitoring of the business relationships. If there is suspicion of money laundering, a predicate offense of money laundering, organized crime, or terrorist financing, a report must be made to the Financial Intelligence Unit (FIU).

7. General terms and conditions

With respect to clauses in boilerplate 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.

8. Taxation

Insurance intermediaries (legal persons) with head office in another Contracting Party to the EEA Agreement and a branch in Liechtenstein are subject to the corporate income tax as set out in articles 44 et seqq. of the Law of 23 September 2010 on National and Municipal Taxes (Tax Act, Liechtenstein Legal Gazette LGBl. 2010 No. 340).

Insurance intermediaries (natural persons) with residence in another Contracting Party to the EEA Agreement and a branch in Liechtenstein are subject to wealth tax and personal income tax as set out in article 6, paragraph 4 and 5 b) and article 9 et seqq. of the Tax Act.

9. Liechtenstein legislation

All the legislation mentioned above may be obtained from the following website:

<http://www.gesetze.li>

Additional information is available from:

Financial Market Authority Liechtenstein (FMA)
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