

Conditions under which, in the interests of the general good, the insurance business must be carried on in Portugal in Freedom to Provide Services Regime

- I. In accordance with article 173 of the Decree-Law nr 94-B/98, of 17th of April, the premiums of the insurance contracts covering risks situated in Portuguese territory or in which Portugal is the member State of the commitment are subject to indirect taxes and parafiscal charges foreseen in the Portuguese law, no matter which law will be applied to the contract and without prejudice of what is established in the Value Added Tax Code (Código do Imposto sobre o Valor Acrescentado).

For the accomplishment of these tax obligations, the article 175 of the mentioned Decree-Law nr 94-B/98 determines that the undertaking operating in Portugal under the freedom to provide services, prior to the beginning of the insurance activity, must appoint a tax representative, resident in Portuguese territory, endowed with a power of attorney with sufficient powers, jointly responsible for the payment of indirect taxes and parafiscal charges. A copy from the Power of Attorney should be forward to the Instituto de Seguros de Portugal.

In order to supervise the compliance of those obligations, the tax representative must have a record of all contracts covering risks or commitments located in Portugal, containing the following information regarding each contract:

- a) Class of insurance risks or commitments;
 - b) Identification and residence of the policyholder;
 - c) Duration of the contract;
 - d) Premium due by the policyholder, subjected to taxes and charges;
 - e) Description of the indirect taxes and charges paid by the undertaking.
- II. Insurance undertakings that intend to cover, by way of freedom to provide services, risks situated in Portuguese territory or in which Portugal is the member State of the commitment, must observe the provisions of articles 18 to 23, of the Legal Regime of the Insurance Contract, approved by the Decree-Law nr 72/2008, of 16th of April, concerning information to be delivered to the policyholders regarding the contractual and premium rates conditions.
- III. In accordance with article 14 of the Legal Regime of the Insurance Contract, it is forbidden to celebrate insurance contracts which cover the following risks:
- a) Criminal, administrative or disciplinary liability;
 - b) Kidnapping, sequestration and other crimes against the personal freedom, with exception of the strict benefits in the nature of indemnity;
 - c) Possession or transportation of narcotics or drugs, which consumption is prohibited;
 - d) Death of children under the age of 14 or of those which, for psychic anomaly or another cause, are incapable to govern themselves, with exception of the strict benefits in the nature of indemnity.
- IV. In order to accomplish the foreseen in the Decree-Law nr 384/2001, of the 19th of November, the insurance undertaking that intends to explore life assurance, capital redemption operations and insurance personal accidents, with beneficiaries in case of death of the insured or of the

underwriter, must, in terms of Article 5 (2) and (4) of Rule Nr. 14/2010-R, of 14th October, create and maintain a database compatible with the platform managed by Instituto de Seguros de Portugal, which allows the automatic and immediate access to the information within it, which must comply with Article 6.º of the referred Rule. Please note that all necessary technical specifications to assure the working of the central registration are available in the Informatics Instruction at Portal ISPnet in www.isp.pt.

- V. Insurance companies that carry on unit linked insurance contracts or unit linked capital redemption operations must observe the information duties required by Regulation nr 8/2007 of the Portuguese Securities Market Commission ("Comissão do Mercado de Valores Mobiliários"), published in the Official Portuguese Journal (Diário da República), II Series, of 20th December, and available in the Portuguese Securities Market Commission Internet site (www.cmvm.pt).
- VI. Under article 10 of the Legal Regime of the Insurance Contract, contracts for any insurance which is compulsory within the Portuguese legal system (a list is available in <http://www.isp.pt/NR/exeres/7DD5BCFA-C7E0-484B-86E8-8FA5C6F3C9E6.htm>) are ruled by Portuguese law, and the general and special conditions attached to such policies, as well as any amendments to it, must be registered on the ISP by the insurance undertaking which offers it, as foreseen by the article 129 of the Decree-Law nr 94-B/98, of 17th of April.
- VII. If the undertaking intends to cover in Portugal, by way of freedom to provide services, risks which, under the Portuguese law are compulsory, must, in accordance with article 66 of the Decree-Law nr 94-B/98, communicate to the Instituto de Seguros de Portugal the name and address of a claims representative resident or established in Portugal, who is required to have all the necessary information related to indemnity processes and possess sufficient powers to represent the company in relation to injured parties, including the power to make payments, and to represent the company or, if necessary, to make arrangements for its representation before the Portuguese courts and authorities regarding the indemnity claims.

The above-mentioned representative must also be invested with powers to represent the company before the Instituto de Seguros de Portugal, regarding supervision of the existence and validity of insurance policies.

- VIII. For the effects of article 67 of the Decree-Law nr 94-B/98, the undertaking that intends to cover risks regarding the compulsory insurance of motor vehicle liability should forward to Instituto de Seguros de Portugal, a declaration, written in Portuguese, confirming that it has become member of the National Green Card Bureau (Gabinete Português de Carta Verde), and that it will assure the contributions for the Motor Guarantee Fund (Fundo de Garantia Automóvel), along with a compromise that it will provide the necessary elements that may allow the competent authority to acknowledge, within 10 days, the name of the insurance company of a vehicle involved in an accident.

In terms of the ISP Rule nr 7/2001-R, the insurance companies covering in Portugal Motor vehicle liability insurance must send to Instituto de Seguros de Portugal a register containing the following information: an annual file with the registration numbers of motor vehicles normally based in Portugal and a weekly file with the changes of number registration.

The companies that intend to cover in the national territory motor vehicle insurance (classes 3 and/or 10, according to classification of Point A of the Annex to Directive 73/239/CEE of 24th July and article 123.º of the Decree-Law nr 94-B/98) are obliged, in accordance with article 87.º, nr 1, of the Decree-Law nr 291/2007, of 21st August, to implement and keeping un updated register of the period for the settlement of the claims on the scope of the motor vehicle insurance. The structure of this register, as well as the periodicity and the manner according to which the information must be forward to ISP, are regulated in the Rule nr 16/2007-R, of 20st of December, changed by the Rules nr 7/2009-R, of 14th May and nr 17/2010-R, of 18th November.

According to article 18 of the Portuguese Decree-Law nr 291/2007, of 21st of August, whenever the accepting of the compulsory insurance of motor vehicle liability is refused, by at least three insurance companies, the insurance proponent may appeal to the Instituto de Seguros de Portugal to appoint an insurance company, which explores the respective insurance class in Portugal, that will become obliged to accept the referred insurance policy.

- IX. If the undertaking intends to cover risks related to "Accidents at Work", according to article 168 of the Decree-Law nr 94-B/98, it must accomplish all the legal and regulatory dispositions due for the respective exploration, namely, guaranteeing the contributions legally due for the Accidents at Work Fund (Fundo de Acidentes de Trabalho), being for that purpose, subjected to the supervision of Instituto de Seguros de Portugal, without prejudice of financial supervision that will be of the exclusive competence of supervisory authority of the home member State.
- X. These subjects are specific for the insurance activity. Furthermore, there are other imperative legal rules to consider, namely rules on insurance mediation, common clauses of contracts (abusive clauses), fiscal and publicity rules.