

Provisions applicable to insurance intermediaries or reinsurance intermediaries, and to market participants who sell insurance products on an ancillary basis, governed by the law of another Member State of the European Economic Area

Listed below is a series of legal and regulatory provisions with a bearing on economic and financial matters which constitute provisions protecting the general good within the meaning of Article 271, § 1, second paragraph of the Law of 4 April 2014 on insurance, and thus concern the activities of:

- branches registered in Belgium of insurance intermediaries, reinsurance intermediaries, and market participants who sell insurance products on an ancillary basis, governed by the law of another Member State of the European Economic Area (EEA), as well as
- insurance intermediaries, reinsurance intermediaries, and market participants who sell insurance products on an ancillary basis, governed by the law of another Member State of the EEA and operating in Belgium under the freedom to provide services.

The FSMA cannot be held liable for inaccuracies in or incompleteness of this list. Only the courts can definitively resolve a dispute regarding the applicability of the provisions mentioned on this list or of other provisions not mentioned here. This list does not confer any rights.

I. ‘General good’ rules which directly regulate the activity of insurance distribution

A. As regards branches registered in Belgium of insurance intermediaries or reinsurance intermediaries governed by the law of another Member State of the EEA:

- Articles 5, 16°/1, 258, § 2, d), 280, 283, § 6 and §§ 8 to 11, 284, § 3, 288, § 4, 290, 291, 293, § 2, 295, § 3, and 296 of the Law of 4 April 2014 on insurance;
- Regulation of 24 February 2017 of the Financial Services and Markets Authority relating to information on the costs and charges which service providers must provide to their clients in relation to the provision of insurance intermediation services in Belgium, approved by the Royal Decree of 2 May 2017.

B. As regards insurance intermediaries or reinsurance intermediaries governed by the law of another EEA Member State and operating in Belgium under the freedom to provide services:

- Articles 5, 16°/1, 258, § 2, d), 280, 283, § 6 and §§ 8 to 11, 284, § 3, 288, § 4, 290, 291, 295, § 3, and 296 of the Law of 4 April 2014 on insurance;

- Regulation of 24 February 2017 of the Financial Services and Markets Authority relating to information on the costs and charges which service providers must provide to their clients in relation to the provision of insurance intermediation services in Belgium, approved by the Royal Decree of 2 May 2017.

C. As regards branches registered in Belgium of market participants who sell insurance products on an ancillary basis and are governed by the law of another EEA Member State:

- Articles 5, 16°/1, 258, § 1, 263, 280, 283, 288, § 4, 290 and 291 of the Law of 4 April 2014 on insurance;
- Regulation of 24 February 2017 of the Financial Services and Markets Authority relating to information on the costs and charges which service providers must provide to their clients in relation to the provision of insurance intermediation services in Belgium, approved by the Royal Decree of 2 May 2017.

D. As regards market participants who sell insurance products on an ancillary basis, are governed by the law of another EEA Member State and operate in Belgium under the freedom to provide services:

- Articles 5, 16°/1, 258, § 1, 263, 280, 283, § 6 and §§ 8 to 11, 288, § 4, 290 and 291 of the Law of 4 April 2014 on insurance;
- Regulation of 24 February 2017 of the Financial Services and Markets Authority relating to information on the costs and charges which service providers must provide to their clients in relation to the provision of insurance intermediation services in Belgium, approved by the Royal Decree of 2 May 2017.

II. Indication of other provisions that (depending on which activities those intermediaries intend to carry out in Belgium) may apply to the activities of insurance intermediaries, reinsurance intermediaries, and market participants who sell insurance products on an ancillary basis, governed by the law of another EEA Member State

This list is not exhaustive and does not in any way affect the obligation, when carrying on activities in Belgium, to comply with the provisions of Belgian law that are not mentioned below (e.g. provisions under civil law, commercial law, criminal law, tax law, privacy legislation or language use legislation). Those laws are available online at <http://www.ejustice.just.fgov.be/loi/loi.htm>

- Title VI “On Maritime Insurance” of the Law of 21 August 1879 on the Code of certain maritime privileges and miscellaneous provisions;
- Law of 10 April 1971 on industrial accidents and its implementing decrees;

- Chapter II of the Law of 30 July 1979 on the prevention of fire and explosion and on the compulsory civil liability insurance in such cases, and its implementing decrees;
- Law of 21 November 1989 on the compulsory civil liability insurance in respect of motor vehicles, and its implementing decrees;
- Law of 2 August 2002 on the supervision of the financial sector and on financial services, and its implementing decrees as well as the regulations adopted for its implementation, such as, in particular:
 - FSMA Regulation of 3 April 2014 banning the distribution of certain financial products to retail clients, approved by the Royal Decree of 24 April 2014;
- Programme Law of 24 December 2002 amending the legal framework for the supplementary pensions of self-employed persons (“LPCI”), and its implementing decrees;
- Law of 28 April 2003 on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits (“LPC”), and its implementing decrees;
- Title XI, Chapter VII “Creation of a database on supplementary pensions and information for employees, self-employed persons and civil servants on data relating to supplementary pensions”, of the Programme Law (I) of 27 December 2006 and the Royal Decree of 25 April 2007 implementing Article 306 of the Programme Law (I) of 27 December 2006;
- Law of 1 April 2007 on insurance against damage caused by terrorism;
- Law of 10 May 2007 aimed at combating discrimination between men and women;
- Law of 10 May 2007 designed to fight certain forms of discrimination;
- Title II, Chapter V “Dormant accounts, safes and insurance contracts”, of the Law of 24 July 2008 containing various provisions (I);
- Law of 13 November 2011 on compensation for personal and moral injury arising from a technological accident;
- Law of 4 April 2014 on insurance and its implementing decrees as well as the decrees implementing the Law of 25 June 1992 on non-marine insurance contracts and the Law of 9 July 1975 on the supervision of insurance companies and the decrees implementing the Law of 27 March 1995 on insurance and reinsurance broking and the distribution of insurance insofar as they are not contrary to the Law of 4 April 2014, such as in particular:

- Royal Decree of 12 January 1984 setting out the minimum cover terms under private third-party liability insurance;
 - Royal Decree of 12 October 1990 on legal assistance insurance;
 - Royal Decree of 22 February 1991 containing general regulations relating to the supervision of insurance companies;
 - Royal Decree of 24 December 1992 implementing the Law of 25 June 1992 on terrestrial insurance contracts;
 - Royal Decree of 24 December 1992 on insurance against fire and other hazards, in respect of ordinary risks;
 - Royal Decree of 14 November 2003 on life insurance;
 - Royal Decree of 1 February 2010 determining the specific indices referred to in Article 204, § 3, of the Law of 4 April 2014 on insurance;
 - - Royal Decree of 25 April 2014 imposing certain information obligations when distributing financial products to retail clients:
 - Royal Decree of 16 April 2018 establishing the terms and conditions for compulsory motor third-party liability insurance.
- The Law of 25 April 2014 on the legal status and supervision of independent financial planners and on the provision of advice on financial planning by regulated entities and amending the Companies Code and the Law of 2 August 2002 on the supervision of the financial sector and on financial services;
 - Title IV, “Supplementary pensions for company directors” of the Law of 15 May 2014 containing various provisions, as well as its implementing decrees;
 - Book VI, “Market practices and consumer protection” of the Economic Law Code, the definitions specific to Book VI incorporated into Book I of the Economic Law Code and the applicable legal provisions specific to Book VI incorporated into Book XV of the Economic Law Code and the implementing decrees of that Book, as well as the implementing decrees of the Law of 14 July 1991 on trading practices and on consumer information and protection, and the Law of 6 April 2010 on market practices and consumer protection¹;

¹ Professional associations that represent insurance companies and insurance intermediaries have, in addition to the applicable legislative provisions, drawn up rules of conduct. The courts may consider respect for the said rules of conduct to constitute good trading practices within the meaning of the Law. The rules of conduct are available on the websites of the professional associations in question:

- Assuralia, the Professional association of insurance companies (www.assuralia.be);
- the FVF, Federatie voor Verzekerings- en Financiële tussenpersonen [Federation of insurance and financial intermediaries] (www.fvf.be);

- Book VII, “Payment and credit services” of the Economic Law Code, the definitions specific to Book VII incorporated into Book I of the Economic Law Code and the applicable legal provisions specific to Book VII incorporated into Book XV of the Economic Law Code and the implementing decrees of that Book, as well as the implementing decrees of the Law of 12 June 1991 on trading practices and consumer information and the Law of 4 August 1992 on the central Individual Credit Register;
- Book X, “Commercial agency agreements, commercial cooperation agreements and distribution agreements” of the Economic Law Code and the definitions specific to Book X incorporated into Book I of the Economic Law Code and its implementing decrees, as well as the implementing decrees of the Law of 13 April 1995 on commercial agency agreements;
- Book XVI, “Out of court settlement of consumer disputes” of the Economic Law Code, the definitions specific to Book XVI included in Book I of the Economic Law Code and the applicable legal provisions specific to Book XVI included in Book XV of the Economic Law Code and the implementing decrees of that Book;
- Law of 13 March 2016 on the legal status and supervision of insurance or reinsurance companies, as well as its implementing decrees;
- Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash;
- Law of 18 February 2018 containing various provisions on supplementary pensions and establishing a supplementary pension for self-employed natural persons, for assisting spouses and for self-employed assistants;
- Law of 6 December 2018 establishing a voluntary supplementary pension for employees and containing various provisions regarding supplementary pensions (1).

Moreover, it follows from Article 25 of the Law of 4 April 2014 on insurance that contracts entered into in fulfilment of an obligation to take out insurance imposed by Belgian law are governed by Belgian law. A list of the types of insurance contracts in question is available on the following website: <https://www.fsma.be/fr/liste-des-assurances-obligatoires-0>.

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- UPCA, Union professionnelle de courtiers d’assurance [Professional association of insurance brokers] (www.upca.be);
 - Feprabel, the Fédération des Courtiers en assurances & Intermédiaires financiers de Belgique [Federation of insurance brokers and financial intermediaries of Belgium] (www.feprabel.be).