

Obtaining a registration as an insurance intermediary in Belgium

Overview of the legal framework and
the FSMA registration process

FSMA

AUTORITEIT
VOOR FINANCIËLE
DIENSTEN
EN MARKTEN

AUTORITÉ
DES SERVICES
ET MARCHÉS
FINANCIERS



September 2019

Updated to reflect IDD implementation

Welcome

- This presentation aims to provide firms with a brief overview of the legal requirements and process to obtain a registration as an insurance intermediary in Belgium.
- As no two firms are alike, this information is limited to general information on the legal framework applicable to insurance intermediaries, and to guidance regarding the online registration process.
- **The FSMA is open to meet all firms with an international business activity, that intend to register as insurance intermediaries in Belgium.**
- However, the FSMA does not provide legal advice; we therefore recommend firms to seek specialised legal counsel for assistance with the application process, taking into account the particular circumstances of the firm concerned.
- You can contact us at tpc@fsma.be

The Belgian legal framework on insurance distribution in a nutshell

The legal framework in a nutshell (1/5)

Does my firm need prior approval from the FSMA to pursue ‘insurance distribution activities’?

- Yes: insurance distribution is a licensed activity: no activities may be carried out without a valid registration from the FSMA, and can be penalised by **administrative and criminal sanctions**.

How does Belgian law define ‘insurance distribution activities’?

- **Registration is required by any person or firm wishing to take up** *“advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts”*.

Is there ongoing supervision following registration?

- Yes: once registered, firms must **continue to meet all legal requirements** in order to maintain their registration.

The legal framework in a nutshell (2/5)

Does my firm need to be established in Belgium?

- Yes: the firm's HQ must be **located in Belgium** and the firm must obtain a **Belgian company number**.

Is there one generic registration to apply for, or does my firm need to indicate a desired type of registration?

- Belgian law knows 5 different categories for registration:
 - independent insurance **broker**
 - insurance **agent** - acting in name of one or more insurance undertakings
 - **subagent** (intermediary acting under full responsibility of another broker or agent)
 - the **mandated underwriter** is mandated to accept coverage of risks, to write and manage insurance contracts in the name and on behalf of one or more insurance undertakings
 - **ancillary insurance intermediary** whose main professional activity is not insurance distribution
- Each category has its own specificities (e.g. in terms of duties and responsibilities, and qualifications and experience requirements).
- A firm can only be registered in **one category at a time**.

The legal framework in a nutshell (3/5)

Does everyone within my firm need to demonstrate fitness and propriety?

- No: not all roles within the firm require **passing a fitness and/or propriety test**. An overview of the various roles can be found on slide 9.

Does everyone within my firm need to submit proof of qualifications and experience?

- No: not all roles require providing the FSMA with **proof of qualifications and experience**. This depends per role. An overview can be found on slide 10.

Is professional liability insurance (PII) required to obtain registration?

- Yes: all firms must **provide a valid certificate of PII** upon registration:
 - Geographic cover for the entire EEA
 - Minimum cover per claim of EUR 1M (indexed)
 - Minimum cover per year of EUR 3M (indexed)

The legal framework in a nutshell (4/5)

Do insurance intermediaries need to comply with AML/TF laws?

- Yes: **anti-money laundering and counter-terrorist financing** (AML/TF) legislation applies to all non-exclusive intermediaries active in life insurance and must be respected.

Do insurance intermediaries need to comply with rules of conduct?

- Yes: Belgian **rules of conduct** must be respected.

Are there any minimum capital requirements for insurance intermediaries in Belgium?

- Limited liability company forms in Belgium require general minimum capital requirements as imposed by Belgian company law.
- No specific additional **minimum capital requirements** are imposed on insurance intermediaries as part of registration requirements.

The legal framework in a nutshell (5/5)

Can my firm benefit from the European Passport once registered?

- Yes, **the European Passport is available**, intermediaries remain submitted to FSMA supervision
- Prior notification to the FSMA is required.
- Additional local regulation may apply in some Member States.

Which other legal requirements must be complied with?

- Insurance intermediaries can **only work with authorised insurers** [whose authorization is the sole competence of the National Bank of Belgium (NBB)].
- Firms must adhere to an **extra-judicial complaints** procedure
- Payment of an **annual contribution** to the FSMA's operating costs – amount is determined in function of the size of the mediation activities.
- All changes in your firm that have an impact on the information required by the FSMA must be **communicated immediately** to the FSMA.

The Belgian legal framework

Overview of the various roles within a firm

Role	Type of fit & proper assessment	Must demonstrate professional knowledge to FSMA?	Must provide documents during registration?*
Shareholder (SH)	fitness	n/a	Yes - Suitability questionnaire
Senior Manager (SM)	fitness and propriety	Yes – minimum 1 SM must meet prof. knowledge requirements	Yes - Suitability questionnaire - Police certificate - Proof of qualifications and experience
Responsible for the distribution (RD)	fitness and propriety	Yes	Yes - Suitability questionnaire - Police certificate - Proof of qualifications and experience
Responsible for AML/TF legislation	n/a	n/a	Yes - Questionnaire on the respect of AML/TF legislation
Client-facing staff (Person in Contact with the Public)	fitness and propriety	No	No

* All questionnaires can be downloaded from our website, mcc-info.fsma.be

The Belgian legal framework

Overview of professional knowledge requirements

Role	Type of diploma	Supplementary exams required? ¹	Minimum practical experience
Responsible for the distribution (RD) + Senior Manager (SM)	Master's degree	No	Broker + MU: 2 yrs Agent: 1 yr Subagent: 6m Ancillary: n/a
	Specialised Bachelor's degree in insurance	No	Broker + MU: 1 yrs (Sub-)Agent: 6m Ancillary: n/a
	Secondary school (or higher other than the above)	Yes	Broker + MU: 1 yrs (Sub-)Agent: 6m Ancillary: n/a
Persons holding a client-facing position - other than RD (PCP)	Cf. RD above.		6m (on-the-job training is possible)

¹ Specific transitional rules on supplementary exams apply through to September 2020 for the SM, RD and PCP functions

Notes:

- Supplementary exams must be taken at an examination center recognized by the FSMA; non-Belgian exams cannot be accepted
- A separate exam on AML/TF-matters is required for insurance distribution in life insurance products
- Rules on recognition of higher education diplomas under the Bologna Declaration apply. Post-Brexit provided that no specific rules on diploma recognition is foreseen, supplementary exams will be required
- The above rules equally apply to registration as a reinsurance intermediary

The registration process

Cabrio - the online FSMA application for all intermediaries

The registration process

Cabrio – the online FSMA application (1/3)

How do firms apply for registration? Are there any forms to fill out?

- No: the registration process is fully online in a **secure** application:
Cabrio – available at mcc-info.fsma.be
- Depending on the selected registration category, the firm's activities, and the various roles, **certain documents must be uploaded to the system** (e.g. diplomas, certificates, questionnaires, ...)

Is there a registration fee?

- Yes: a one-time **EUR 661,- processing fee (year 2019)** is charged, to be paid at the end of the online registration process.
- After registration, an annual fee is due. This is an amount approximating EUR 600,- à EUR 700,- (depending on several variables).

What means of payment are accepted?

- **Payment** is done through a secure online payment solution.
- A Belgian debit card or an international credit card (Visa only) is required.

The registration process

Cabrio – the online FSMA application (2/3)

What is required **before starting the registration process?**

- Before starting the registration process, firms must prepare and have at hand:
 - The Belgian company number of the firm seeking to register
 - A professional e-mail address
 - A digital secure sign-on certificate to access the online application. The following are supported:
 - eID-card for Belgian nationals / eID-card for foreign nationals domiciled in Belgium
 - Isabel
 - Globalsign Personal 3

Note: when using an eID-card or Isabel-card, a suitable card reader must be connected and installed
 - All completed questionnaires and other documents for all persons and roles within the firm
 - Means of payment.

Is it possible to **mandate someone else** to register my firm?

- Yes, this is possible: the online system accepts granting power of attorney to a third-party (e.g. a Belgian solicitor or accountant) to register the firm.

The registration process

Cabrio – the online FSMA application (3/3)

What documents must be submitted during the registration process?

- For all persons in a role which requires fitness and/or propriety:
 - Their Belgian national registry number (or an equivalent national number)
 - A valid police certificate (not older than 3 months) (part of the « fit/proper » test)
 - Belgian residents can obtain this document at the communal authorities of their residence
 - The completed suitability questionnaire(s)
- For all persons in a role for which proof of qualifications and experience is required:
 - Their Belgian national registry number (or an equivalent national number)
 - The completed suitability questionnaire(s)
 - The required diploma(s) and supplementary exams where applicable
- A valid PII certificate.
- Proof that the person registering the firm is entitled to represent the firm (model/template available on FSMA website).

Do you have another question?

For any specific questions and meeting requests:

TPC@fsma.be

We also have more than 300 FAQs available on mcc-info.fsma.be
(Dutch and French only)

All references to legal provisions are applicable in September 2019 and may be subject to changes, including those resulting from the implementation of the IDD.

Only the Dutch and French language versions of the legal provisions carry legal effect, any English translation is a courtesy translation.