

**Conditions under which, in the interests of the general good, the insurance business must be carried on in Portugal, under the freedom to provide services regime**

- I. In accordance with article 15.<sup>o</sup> of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance, approved by the Portuguese Law 147/2015, of 9 September, 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 the special legislation applicable to the insurance business on the institutional scope of the free zones. The information regarding the indirect taxes and parafiscal charges is available at <http://www.asf.com.pt/NR/exeres/772E8F7D-1F19-4C11-BD73-EB2E3819421E.htm>
  
- II. In order to pay the parafiscal charges due for the insurance business that covers risks or commitments in Portugal, the insurance company or an appointed representative must require to the ASF (preferentially to the e-mail address [dars@asf.com.pt](mailto:dars@asf.com.pt)) the issuing of an entity code as well as an username to access to the channel “Taxas” (“Taxes”) available at the ASF web portal (<https://portaldasf.asf.com.pt>).  
  
In the first access to the ASF portal, it is only need to introduce the username and access to the function “Alterar Palavra-Passe” (“Change Password”) in order to proceed with the costumisation. In this first proceeding of changing the password, the field “Palavra-Passe Atual” (“Current Password”) should be fulfilled with “ASF”.  
  
Any doubts in using the ASF web portal should be addressed to our Helpdesk to the e-mail [portaldasf@asf.com.pt](mailto:portaldasf@asf.com.pt) or to the phone number +351 21 798 39 00.
  
- III. 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 previsions of articles 18 to 23, of the Legal Regime of the Insurance Contract, approved by the Decree-Law nr 72/2008, of 16 April, concerning information to be delivered to the policyholders regarding the contractual and premium rates conditions.
  
- IV. 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.

- V. In order to accomplish the foreseen in the Decree-Law nr 384/2001, of 19 of November, changed by the Decree-Law nr 112/2013, of the 6<sup>th</sup> August, 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 create and maintain a database compatible with the platform managed by ASF, which allows the automatic and immediate access to the information within it or, instead, sent to ASF the information to be included on the referred database, in terms of Article 5 (2) and (4) and article 6 of Rule Nr. 14/2010-R, of 14<sup>th</sup> October, amended by the Rule Nr. 7/2013-R, of 24<sup>th</sup> October. Please note that all necessary technical specifications to assure the working of the central registration are available in the Informatics Instruction at Portal in <http://www.asf.com.pt/NR/exeres/E5BAD587-383B-4EE9-85CB-771917D88CCF.htm>.
- VI. 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 (CMVM), and available at the CMVM website ([http://www.cmvm.pt/pt/Legislacao/Legislacaonacional/Regulamentos/Pages/Reg2007\\_08.aspx](http://www.cmvm.pt/pt/Legislacao/Legislacaonacional/Regulamentos/Pages/Reg2007_08.aspx)).
- VII. 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.asf.com.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 ASF by the insurance undertaking which offers it, before the beginning of the respective business or one month from that date, as foreseen by the article 39 (2) of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance.
- VIII. 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 242.º of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance, communicate to the ASF 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 ASF, regarding supervision of the existence and validity of insurance policies and the respective registration according to article 42.º of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance.

- IX. According to article 243.<sup>o</sup> of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance, approved by the Portuguese Law 147/2015, of 9 September, the undertaking that intends to carry out the compulsory insurance of motor vehicle liability should forward to the ASF 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 ASF Rule nr 7/2001-R, of 10 July, the insurance companies covering in Portugal the compulsory insurance of motor vehicle liability must send to the ASF 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.

According to article 18 of the Portuguese Decree-Law nr 291/2007, of 21 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 ASF to appoint an insurance company, which explores the respective insurance class in Portugal, that will become obliged to accept the referred insurance policy.

- X. The companies that intend to cover in the national territory the optional motor vehicle insurance regarding own damages and/or the compulsory insurance of motor vehicle liability (classes 3 and/or 10, according to classification of Point A (1) of the Annex I to Directive 2009/138/EC of 25 November) are obliged, in accordance with article 87.<sup>o</sup>, nr 1, and article 92.<sup>o</sup> of the Decree-Law nr 291/2007, of 21st August, to implement and keeping an 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 ta ASF, are regulated in the Rule nr 16/2007-R, of 20 December, changed by the Rules nr 7/2009-R, of 14 May and nr 17/2010-R, of 18 November.
- XI. If the undertaking intends to cover risks related to accidents at work, it must, according to articles 203.<sup>o</sup> and 204.<sup>o</sup>, applicable by the article 241.<sup>o</sup> of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance, accomplish with 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 ASF without prejudice of financial supervision that will be of the exclusive competence of supervisory authority of the home member State.
- XII. The insurance companies that carry on insurance business in Portugal, under the freedom to provide services, must act in compliance with the general principles and rules of market conduct, namely regarding the treatment policy of

policyholders, insured persons, underwriters, beneficiaries and third parties, publicity, agreements among insurance companies, claims managing and costumer ombudsman, in accordance to the conditions listed in articles 153.º to 159.º, applicable by the article 241.º of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance, and ASF Rule 10/2009, of 25 de June, changed and republished by the Rule 2/2013, of 10 January, and must also publish an updated code of conduct laying down guidelines on professional ethic.

- XIII. 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.