

Conditions under which, in the interests of the general good, the insurance business must be pursued in Portugal, by way of establishment

- I. In accordance with article 15.º of the legal framework concerning the access to and exercise of insurance and reinsurance business, 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, without prejudice of what is established in the Value Added Tax Code (Código do Imposto sobre o Valor Acrescentado), no matter which law will be applied to the contract and considering 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. Insurance undertakings that intend to cover, by way of establishment, risks situated in Portuguese territory or in which Portugal is the Member State of the commitment, must observe the provisions of articles 18.º to 23.º 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.º 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 19 of November, changed by the Decree-Law nr 112/2013, of the 6th 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 14th October, amended by the Rule Nr.

7/2013-R, of 24th 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>

- V. Insurance companies that carry on unit linked insurance contracts or unit linked capital redemption operations must observe the information duties required by Regulation of the Portuguese Securities Market Commission (Comissão do Mercado de Valores Mobiliários - CMVM), nr 2/2012, published at the Diário da República, II Serie, of 26th November, and available at the CMVM website (<http://www.cmvm.pt/pt/Legislacao/Legislacaonacional/Regulamentos/Pages/Regulamentos.aspx?pg>)
- 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.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, approved by the Portuguese Law 147/2015, of 9 September. .
- VII. For the effects of article 203.º of the RJASR, if the undertaking intends to cover risks regarding the compulsory insurance class j) of article 8.º of the RJASR, (compulsory insurance of motor vehicle liability), must present 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).
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.
- VIII. 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.º, nr 1, and article 92.º 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.

- IX. If the undertaking intends to cover risks related to accidents at work, it must, according to articles 203.º and 204.º of RJASR, 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.
- X. The insurance companies that carry on insurance business in Portugal, under the establishment regime, 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 200.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.

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) and fiscal rules.

- XI. We point out that, according to the Decree-Law nr 156/2005, of 15th of September, the existence and availability of a complain-form book in the insurance undertaking's establishments, has become compulsory.
- XII. Finally, we inform that, before beginning its activity in Portugal, the branch of the insurance undertaking must be registered at the respective "Conservatória do Registo Comercial", and ASF must be informed of that proceeding.