

18/4/2023

Provisions applicable to insurance or reinsurance companies governed by the law of another Member State of the European Economic Area operating in Belgium under the freedom to provide services

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 Articles 564, § 1, and 576 of the Law of 13 March 2016 on the legal status and supervision of insurance or reinsurance companies and Article 15 of the Law of 4 April 2014 on insurance, and thus concern the activities of insurance and reinsurance companies governed by the law of another Member State of the European Economic Area (EEA) operating in Belgium under the freedom to provide services.

The NBB and the FSMA cannot be held liable for any 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.

A. *'General good' provisions which specifically apply to insurance and reinsurance companies governed by the law of another EEA Member State operating in Belgium under the freedom to provide services*

- Articles 556, § 2, 557 and 563 (insurance company) and 577 (reinsurance company) of the Law of 13 March 2016 on the legal status and supervision of insurance or reinsurance companies.

B. *'General good' provisions which directly regulate the activity of insurance distribution carried on in Belgium by insurance and reinsurance companies governed by the law of another EEA Member State operating in Belgium under the freedom to provide services*

- Articles 5, 16°/1, 258, § 2, d), 259, § 2, 261, § 2, 280, 283, § 6 and §§ 8-11, 288, § 4, second indent, 290, 291, 292 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 mediation services in Belgium, approved by Royal Decree of 2 May 2017.

C. *Indication of other provisions that (depending on which activities those companies intend to carry out in Belgium) may apply to the activities of insurance or reinsurance companies governed by the law of another EEA Member State operating in Belgium under the freedom to provide services*

This list is not exhaustive and does not in any way detract from 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, the privacy legislation or the legislation on the use of languages). Those laws are available online at <http://www.ejustice.just.fgov.be/law/law.htm>.

- Title VI "Marine insurance" of the Law of 21 August 1879 on maritime and inland waterway commerce;
- Law of 10 April 1971 on occupational 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 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:
 - Regulation of 3 April 2014 of the Financial Services and Markets Authority on the ban on the distribution of certain financial products to retail clients, approved by Royal Decree of 24 April 2014;
 - Regulation of 26 May 2016 of the Financial Services and Markets Authority regulating the distribution of certain financial derivatives to retail clients, approved by Royal Decree of 21 July 2016;
- Programme Law of 24 December 2002 amending the legal framework for pensions for self-employed workers, 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, 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, and its implementing decrees;
- Law of 10 May 2007 aimed at combating discrimination between men and women;
- Law of 10 May 2007 aimed at combating certain discriminations;
- 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 of bodily and moral damage resulting from a technological accident;
- Law of 4 April 2014 on insurance and its implementing decrees, as well as the implementing decrees of the Law of 25 June 1992 on the non-marine insurance contract and the Law of 9 July 1975 concerning the supervision of insurance companies 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 insurances;
 - Royal Decree of 12 October 1990 on the legal assistance insurance;
 - Royal Decree of 22 February 1991 containing general regulations relating to the supervision of the insurance companies;

- Royal Decree of 24 December 1992 implementing the Law of 25 June 1992 on the non-marine insurance contract;
 - Royal Decree of 24 December 1992 on the insurance against fire and other hazards in respect of ordinary risks;
 - Royal Decree of 14 November 2003 on life insurance activities;
 - 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;
- Law of 25 April 2014 on the legal status and supervision of independent financial planners and on the provision of financial planning advice by regulated firms, 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 pension for company directors" of the law of 15 May 2014 containing various provisions;
 - 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;
 - Book VI "Market practices and consumer protection" of the Code of Economic Law, the specific definitions of Book VI contained in Book I of the Code of Economic Law and the specific law enforcement provisions of Book VI contained in Book XV of the Code of Economic Law, and the implementing decrees of that Book, as well as of the Law of 14 July 1991 on trade practices and information and protection of consumers, and the Law of 6 April 2010 on market practices and consumer protection which remain in force until their repeal;
 - Book VII "Payment and credit services" of the Code of Economic Law, the specific definitions of Book VII contained in Book I of the Code of Economic Law and the specific law enforcement provisions of Book VII contained in Book XV of the Code of Economic Law, and the implementing decrees of that Book, as well as the implementing decrees of the Law of 12 June 1991 on consumer credit, the Law of 4 August 1922 on mortgage loan, and the Law of 10 August 2001 on the Central Individual Credit Register which remain in force until their repeal;
 - Book XVI "Extrajudicial settlement of consumer disputes" of the Code of Economic Law, the specific definitions of Book XVI included in Book I of the Code of Economic Law, and the specific law enforcement provisions of Book XVI included in Book XV of the Code of Economic Law, and the implementing decrees of that Book;
 - Regulation of 4 October 2022 of the FSMA restricting the marketing to consumers of certain insurance contracts relating to multimedia devices, approved by Royal Decree of 20 October 2022.

In addition, pursuant to Article 25 of the Law of 4 April 2014, contracts intended to fulfil an obligation to take out insurance as imposed by Belgian law are governed by Belgian law. A list of these contracts is available on the following web page: <https://www.fsma.be/fr/liste-des-assurances-obligatoires-0>.