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Legal Update

22 January 2019

The implementation of IDD in the Greek framework and the new reality in the insurance market

On 18 December 2018 and with close to three months delay, Law 4583/2018 was published in the Official Journal of the Greek Government on Greece's obligation to implement the new framework on insurance intermediary distribution channels which was introduced with [Directive \(EU\) 2016/97](#) (Insurance Distribution Directive – IDD) and [Directive \(EU\) 2018/411](#).

The European requirements were aiming for a minimum harmonization of Member States' national framework for the intermediary insurance sector. Instead, the result was the redrafting of [Directive 2002/92/EC](#) (Insurance Mediation Directive-IMD) with the introduction of new definitions regarding (re)insurance products distribution and by expanding its scope at the same time.

What is new framework's objective?

The new framework is designed to ensure the effective protection of consumer and small-medium sized businesses and to level the playing field for a “no barrier” insurance market.

The availability of complex insurance-based investment products to consumers as a result of the continued development in the insurance sector, the recent financial crisis and the increase of cross-border insurance transactions highlighted the need for the creation of a new framework for the distribution of insurance products in the EU.

Who is affected by the new framework?

The enhanced scope of new Law means that more individuals are affected. Contrary to the previous framework which applied exclusively to **(re)insurance intermediaries** and **tied (re)insurance intermediaries**, the new Law now also affects:

- (re)insurers that **directly** sell their own (re)insurance products to consumers
- **ancillary (re)insurance intermediaries**, such as travel agents and car rental companies. Exemptions and “lighter touch” provisions provided by this law may apply under certain conditions for this category.
- **aggregators/price comparison websites** under specific provisions provided by Law

It is noted that the category of “**insurance advisors**” provided by current framework **is repealed**. The relevant persons are renamed to “**insurance brokers**” following the completion of specific procedural requirements.

What does the new framework indicate for cross-border activity?

Requirements for “**passporting**” to carry out (re)insurance activities anywhere in the EU through **freedom of services** are redefined. In fact, typical procedures for cross-border insurance activity are nullified.

What are the new requirements for the respective providers?

- (Re)insurance intermediaries and ancillary (re)insurance intermediaries need to register with the **Local Special Registry** introduced in the new Law.
- The competent Supervisory Authority (Bank of Greece) defines the way in which (re)insurance intermediaries may certify that they meet the necessary **knowledge and skills requirements** to perform their tasks.

- The obligation for a minimum of 15 hours per year of professional training is added as a means of **continuous** confirmation of the (re)insurance intermediary's **professional competence** in the provision of consulting services to consumers.
- The obligation to take out **professional indemnity insurance against civil liability** arising from professional negligence is increased to a minimum of EUR 1 300 370 per claim, and to EUR 1 924 550 in total, per year, for all claims.

How has consumer protection increased?

- A **Product approval and revision process** for each insurance product is introduced.
- The provider faces stricter obligations for the provision of **true, full and adequate information** to the customer in relation to the insurance product provided.
- When insurance products are offered together with another service or product as part of a package or as a condition for the same package, **separate evidence of the costs** of each component must be provided.
- In case of composite products, the customer must be informed whether it is possible to **buy the different components separately**. This option shall be excluded in case these products are offered ancillary to a credit agreement or payment account or investment activity.
- **Unfair practices are forbidden**; for the first time, discounts and special benefits offered for the conclusion of (re)insurance agreement are prohibited.
- Limits are imposed with the aim of avoiding **conflict of interest** and enhancing **transparency**. In this context, the Law introduces certain incompatible capacities and provisions for the disclosure of information to indicate any connection or exclusive cooperation between an intermediary and a specific insurance company.

How are the operating segments of the businesses involved affected?

The new provisions demand the amendment of the current respective framework and current practices as a whole, thus requiring the participation of the businesses' main operating segments.



What change for the Insurance Based Investment products?

The new framework also applies to Insurance Based Investment products, in the context of the reasoning 87 of the [MIFID II](#) directive, where the proportionate application of relevant strict provisions is suggested.

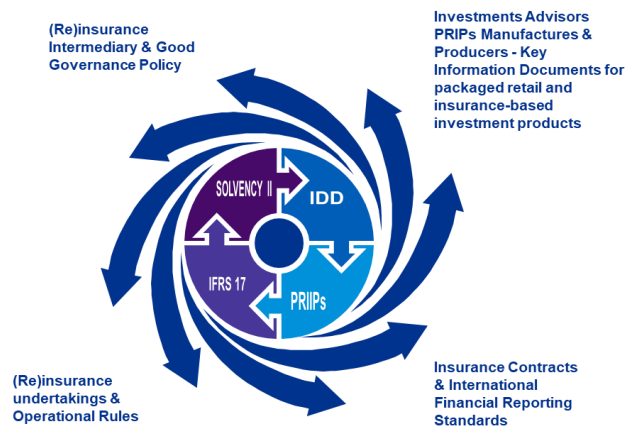
This means that insurance intermediaries providing composite products are called to answer the following questions regarding the investment profile of the customer before the conclusion of the relative agreement:

- Is the advice provided suitable to the customer's needs?
- Does the customer have the necessary knowledge and experience to buy the product offered?
- Is there any conflict of interest between the insurance intermediary or the insurance company and the customer?
- Has the inducement a detrimental impact on the quality of the relevant service to the customer?
- Are the customers properly informed by the insurance intermediaries and companies?

In fact, this is the most significant change introduced by the new legislation, considering that this is the first time where an investors' protective framework regarding these products is introduced; an issue that has also recently concerned the [European Court of Justice](#).

What are the new challenges for the (re)insurance intermediaries?

- Even though the new framework entails greater transparency and more requirements for consumer protection through a consolidated codified regulatory text, (re)insurance intermediaries and companies have to face increased demands, similar to those that investment service providers and banking institutions had to deal with following the implementation of MIFID II and [Law 4514/2018](#).
- The high cost that accompanies compliance measures within the new framework come on top of the provisions of the relatively recent [Law 4364/2016](#) which implemented [Directive \(EU\) 2009/138](#) (Solvency II) as this has been amended by the [Directive \(EU\) 2014/51](#) (Omnibus II), the [Regulation \(EU\) 1286/2014](#) for the Key Information Documents (KIDs) regarding Packaged Retail and Insurance-based Investment Products and International Financial Reporting Standards, [IFRS 17](#) for insurance contracts, that has to come to force by 1 January 2021.



- The option of a flexible application of the new provisions seems to be limited considering that violations may lead to high fines which in the case of legal persons may reach up to EUR 5 000 000 or 5% of the total annual turnover.
- At the same time, the retrospective application of the provisions from 30 September 2018 except from those regarding the registration obligations, may give rise to disputes for this period.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.

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