

## insurance - legal changes published in October 2018

**Law no. 236/2018 on insurance distribution** was published in the Official Gazette, Part I no. 853 of October 8, 2018, which entered into force on October 1, 2018.

This law transposes the provisions of the European Parliament and Council Directive (EU) 2016/97 on insurance distribution (known as the IDD - Insurance Distribution Directive), published in the Official Gazette of the European Union, L series, no. 26 February 2, 2016. It repeals Law 32/2000 on the activity and supervision of insurance and reinsurance intermediaries, and the Financial Supervisory Authority (FSA) will issue new implementing rules, the draft thereof being currently subject to public debate.

It regulates the distribution of insurance and reinsurance products, including at cross-border level and through electronic distribution channels, by:

- (a) insurance undertakings,
- (b) primary intermediaries (insurance brokers, credit institutions and investment firms),
- (c) secondary intermediaries (agents, assistants acting under responsibility of insurers or primary intermediaries),
- (d) ancillary insurance intermediaries (distributing only insurance products that are complementary to a good or service supplied as part of their principal professional business) and
- (e) exempted ancillary insurance intermediaries (in case the insurance provides coverage for (i) the risk of breakdown, loss of, or damage to, the good or the non-use of the service supplied by that provider, or (ii) damage to, or loss of, baggage or other risks associated with a travel booked with that provider, and the amount of the premium calculated on a pro rata annual basis, does not exceed EUR 600 or, if the duration of the service is less than, or equal to, three months, the amount of the premium does not exceed EUR 200).

Within 120 days from the date of entry into force of this law, credit institutions and investment firms currently carrying out bancassurance activities, or who are brokerage assistants, shall choose to carry out the distribution activity according to the new legal provisions (they may opt for the capacity as primary intermediary, with the approval of the FSA and, in the absence of their notice in this respect to the FSA, they may carry out distribution activities as secondary intermediaries).

Among the main novelties, we highlight the following:

- new requirements of professional competence and moral probity applicable from February 23, 2019;
- new conduct requirements for acting in accordance with the best interests of the clients;
- new requirements for pre-contractual information (including the provision of a standardized information document called PID, according to the provisions of Regulation 1469/2017, if the product is included in the general insurance classes);
- provisions on the remuneration of intermediaries;

- provisions regarding advising prior to concluding a specific insurance contract, obtaining the necessary information for the demands and needs test (DNT), depending on the complexity of the insurance product and the type of client;
- special provisions on the possibility of separately purchasing the different components of a package offered (cross-selling);
- provisions on internal product governance requirements and the possibility for the primary intermediaries (brokers, credit institutions and investment firms) to create insurance products in association with insurance undertakings.

The draft FSA Norm on Insurance Distribution provides that insurance brokerage firms may also carry out the distribution of (i) pension products in accordance with applicable law, (ii) capital market investment products as delegated agents, in accordance with applicable law (iii) products created by credit institutions, non-banking financial institutions, payment institutions and electronic currency institutions, according to the applicable national law, with the authorization or approval of the FSA, as the case may be.