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INFORMATION CONCERNING GENERAL GOOD REQUIREMENTS OF THE SLOVENIAN LEGISLATION FOR INSURANCE UNDERTAKINGS AND INSURANCE INTERMEDIARIES[1]

I. INTRODUCTION

This information concerns insurance undertakings with their head offices in the Member States, which in accordance with Article 14 of the *Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)* have been approved by the supervisory authority of the home Member State to carry out insurance operations in the territory of the Republic of Slovenia and intermediaries which may in accordance with Article 4 and Article 6 of the Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) carry out insurance distribution activities in the territory of the Republic of Slovenia.

II. SLOVENIAN INSURANCE LEGISLATION IN FORCE

Provisions that regulate insurance business in the Republic of Slovenia are laid down in the following acts:

- Insurance Act (IA-1) – Official Gazette of the Republic of Slovenia No. 93/15, 9/19, 102/20 and 78/23 – ZZVZZ-T (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6183);
- Compulsory Motor Third-Party Liability Insurance Act (CMTLA) - Official Gazette of the Republic of Slovenia No. 93/07 - official consolidated text, 40/12 - ZUJF, 33/16 – PZ-F, 41/17 – PZ-G and 45/24 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO373);
- Insurance Premium Tax Act - Official Gazette of the Republic of Slovenia No. 96/05 - official consolidated text and 90/14 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1274);
- Health Care and Health Insurance Act (HCHIA) - Official Gazette of the Republic of Slovenia No. 72/06 - official consolidated text, 114/06 – ZUTPG, 91/07, 76/08, 62/10 – ZUPJS, 87/11, 40/12 – ZUJF, 21/13 – ZUTD-A, 91/13, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 111/13 – ZMEPIZ-1, 95/14 – ZUJF-C, 47/15 – ZZSDT, 61/17 – ZUPŠ, 64/17 – ZZDej-K, 36/19, 189/20 – ZFRO, 51/21, 159/21, 196/21 – ZDOsk, 15/22, 43/22, 100/22 – ZNUZSZS, 141/22 – ZNUNBZ, 40/23 – ZČmIS-1 and 78/23 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO213)
- Pension and Disability Insurance Act - Official Gazette of the Republic of Slovenia No. 48/22 - official consolidated text, 40/23 – ZČmIS-1, 78/23 – ZORR and 84/23 – ZDOsk-1 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO6280);
- Obligations Code - Official Gazette of the Republic of Slovenia No. 97/07 – official consolidated text 64/16 - dec. US, 20/18 (http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1263);
- other acts, prescribing general good conditions, for example the Consumer Protection Act and Law on Prevention of Money Laundering and Financing of Terrorism.

This information summarises only the general good requirements of the Insurance Act.

[1] Valid from 19 June 2024.

III. POLICY CONDITIONS AND NOTIFICATION OF POLICYHOLDERS

According to the Article 133 of IA-1 (Conduct of insurance business by insurance undertakings from Member States) an insurance undertaking that is authorised to conduct insurance business in individual classes of insurance in a Member State may also conduct insurance business in the territory of the Republic of Slovenia through a branch or directly under the conditions stipulated by IA-1.

The following provisions of acts and regulations issued regarding their implementation shall apply to insurance undertakings from a Member State which conduct insurance business in the territory of the Republic of Slovenia:

1. Articles 521 to 528.d of IA-1;

2. Article 560 of IA-1;

3. the provisions of the acts, referred to in the Article 7 (6) of IA-1;

4. the provisions of other acts which, in order to safeguard the public interest, govern consumer protection, the prevention of money laundering and terrorist financing, as well as other fields, and apply to insurance undertakings.

According to the third paragraph of the Article 573 of IA-1 (Insurance agencies and insurance brokerage companies and ancillary insurance agents of Member State) an insurance agency or insurance brokerage company or ancillary insurance agent of Member State that may pursue insurance agency or brokerage activities in the Republic of Slovenia directly or through a branch office, shall be a subject to the Articles 521, 522, 524 through 527, 527a, 528a through 528d, 543 through 558, the second paragraph of the Article 565, and Articles 571 and 571.a of the IA-1 regarding transactions performed by such person on the territory of the Republic of Slovenia.

A. Insurance contracts and general policy conditions

Article 521 (1) of IA-1 provides that if insurance covers risks in the Republic of Slovenia, the insurance contract shall mainly include provisions concerning:

1. the company name, the legal form of organisation, the head office and the address of an insurance undertaking and the insurance undertaking's branch through which the insurance contract is entered into;

2. the events that require the obligation of the insurance undertaking to fulfil the provisions of the insurance contract, and concerning events in which the obligation of an insurance undertaking has been exempted for special reasons;

3. the manner of fulfilment, its scope, possible guarantees, and the maturity of the obligation of the insurance undertaking;

4. the determination and payment of a premium, and concerning the legal consequences if the premium is not paid;

5. the term of the insurance contract, especially:
- if and how the term shall be tacitly renewed,
- if, how, and when an insurance contract may be terminated or entirely or partially dissolved, and the obligations of an insurance undertaking in such cases;
6. the loss of claims arising from an insurance contract in the event of a deadline being missed;

7. in the case of life insurance, also the conditions and the scope of advance payments and loans with respect to an insurance contract, the conditions under which a policyholder participates in the profit of an insurance undertaking, the criteria for calculating such participation, and the conditions and manner of calculating the surrender value of the policy and capitalisation;

8. in the case of accident and health insurance for which technical provisions are calculated by means of life insurance methods, also the conditions and the manner of calculating such provisions and corresponding premium changes due to the ageing of the insured person, the rights arising from the already created technical provisions in the event of the termination of insurance, or in the event of a change of insurance within the same insurance undertaking, or in the event of a change of the insurance undertaking, and the effects of other factors on premium changes.

According to Article 521 (2) of IA-1 in the case of a mutual insurance undertaking, the compulsory provisions referred to in the preceding paragraph of the same article may be contained in the Articles of Association instead of in the insurance contract.

According to Article 521 (3) of IA-1 the provisions of the insurance contract referred to in paragraph (1) of the same article may deviate from the general conditions of insurance to the detriment of the policyholder only if there are justified grounds for this with regard to the subject of insurance, and if the policyholder provides express written consent to such deviation.

According to Article 521 (4) of IA-1 in the event of legal expenses referred to in point 17 of Article 7 (2) of IA-1, the insurance contract may not determine that an insurance undertaking shall cover only the costs of legal representations through a solicitor or any other person appointed by an insurance undertaking.

According to Article 521 (5) of IA-1 an insurance contract shall not be in conflict with the mandatory rules of other Acts governing insurance contracts or individual types of insurance contracts.

According to Article 521 (6) of IA-1 insurance undertakings shall treat all providers and potential insured persons who wish to obtain insurance services equally; however, in the procedure for making selections, assessing risks, determining premiums and paying insurance benefits, they may take into consideration the criteria of insurance experts or only the following personal circumstances and traits of the insured person: age, health condition, disability, occupation, and other personal circumstances that may reasonably affect the amount of the assumed risk, with the exception of gender, maternity, and pregnancy.

According to Article 521 (7) of IA-1 with regard to insurance from the life insurance group and accident and health insurance classes, insurance undertakings may take into consideration the personal circumstance of gender when calculating premiums and benefits at an aggregate level if this does not lead to differentiation at an individual level. Insurance undertakings may take account of the gender factor to calculate technical provisions and to fix prices internally, to set forth reinsurance prices, to market and advertise, and to assess risks arising from the life insurance group and health and accident insurance class.

According to Article 521 (9) of IA-1 insurance undertakings, insurance agencies and insurance brokerage companies which manufacture insurance products shall maintain an approval processes for each insurance product or a significant adaptation of existing insurance products, before distributing products to customers. These product approval processes have to be carried out and regularly revised.

According to Article 521 (10) of IA-1 the product approval process referred to in Article 521 (9) IA-1 shall be proportionate and appropriate to the type of the insurance product.

Article 521 (11) of IA-1 provides that the product approval process shall specify an identified target market for each product, ensure that all relevant risks to the identified target markets are assessed, that the

intended distribution strategy is consistent with the identified target market, and take reasonable steps to ensure that the insurance product is distributed to the identified target market.

According to Article 521 (12) of IA-1 the insurance undertaking shall regularly review the insurance products referred to in Article 521 (9) and take into account all events that could significantly affect the potential risks to the identified target market assessing, at minimum, whether the insurance product meets the needs of the identified target market and whether the intended distribution strategy is still appropriate.

According to Article 521 (13) of IA-1 insurance undertakings, insurance agencies and insurance brokerage companies that create insurance products shall provide to distributors of insurance products all relevant information about the insurance product, the approval process of the insurance product and the defined target market of insurance products.

According to Article 521 (14) of IA-1 where the distributor of insurance products advises on or proposes an insurance product that was not manufactured by the distributor, it must obtain the information referred to in Article 521 (13) of IA-1 and understand the characteristics and the identified target market of an insurance product in such a manner that the distributor obtains all information necessary for the distribution of these products.

According to Article 521 (15) of IA-1 the provisions of the ninth to fourteenth paragraph of Article 521 of IA-1 shall be without prejudice to the other requirements of IA-1 and other binding regulations nor to the requirements relating to the disclosure, suitability or appropriateness, identification and management of conflicts of interest and payments for the distribution of insurance products.

According to Article 521 (16) of IA-1 provisions of the Article 521 (9) – (14) of IA-1 shall not apply to the insurance of large risks referred to in Article 532 of IA-1.

B. Notifying policyholders upon entering into an insurance contract

Article 522 (1) of IA-1 provides that the distributor of insurance products shall notify the policyholder upon entering into the insurance contract referred to in Article 521 (1) of IA-1, in writing or in soft copy, concerning:

1. the company name, the legal form of organisation, the head office and the address of the insurance undertaking and the insurance undertaking's branch through which the insurance contract is entered into;

2. the general conditions of insurance that apply to insurance relationships;

3. the law applicable to an insurance contract or, in cases with an international element, the right of the customer to choose the law applicable to an insurance contracts pursuant to the Regulation referred to in paragraph (2) of Article 529 of IA-1;

4. access to the report on the solvency and financial situation of the insurance undertaking referred to in Article 261 of IA-1;

5. the manner of treating complaints filed by policyholders or other beneficiaries, including the existence of a body for resolving complaints;

6. the manner of fulfilment, scope, and maturity of the obligations of the insurance undertaking, and any guarantees;

7. the term of the insurance contract;

8. the amount of the premium, whereby the insurance premium is divided into insurance premiums for individual risks if the insurance covers risks from multiple insurance classes, and concerning the amount of the contributions, taxes, and other costs charged in addition to the premium, and concerning the total amount of payments;

9. the period in which the provider is bound by the insurance proposal;

10. the right to cancel, withdraw, or other options;

11. the name and address of the supervisory authority competent to supervise the insurance undertaking;

12. conditions for establishing a suspension;

13. whether it provides advice about the insurance products sold.

In the case of life insurance, the written or electronic notifications referred to in the preceding paragraph or the submitted insurance conditions shall also contain information to enable an understanding of the risks underlying the contract which are assumed by the policyholder upon entering into an insurance contract, and information on the rights referred to in Article 525 (Article 522 (2) of IA-1).

According to Article 522 (3) of IA-1 in the case of life insurance, accident and health insurance with a right to receive a partial reimbursement of an insurance premium, the notification sent to policyholders shall contain, in addition to the data referred to in the preceding paragraph, the following data concerning:

1. the bases and criteria for profit participation;

2. a table with the surrender values of policies;

3. the minimum insurance sum or the minimum insurance period for converting the insurance into an insurance without a premium (capitalisation) and concerning the rights arising from such insurance;

4. in the case of insurance whereby benefits are connected to investment fund units, concerning investments and the nature of the funds in an investment fund;

5. in the case of insurance whereby benefits are directly related to changes in the securities index or any other reference value concerning the securities index or any other reference value;

6. the tax regime applicable to insurance.

According to Article 522 (4) of IA-1 where an insurance product is offered as a part of a package or the same agreement along with an ancillary product or service, the distributor of insurance products shall inform a policyholder whether there is a possibility of purchasing the individual components separately, and in this case shall provide an adequate description of the individual components of the package or the same agreement and shall provide separate evidence of the costs and charges of each component.

According to Article 522 (5) of IA-1 in the circumstances referred to in Article 522 (4) of IA-1, and where the risk or the insurance coverage resulting from such an agreement or package offered to a policyholder is different from that associated with the components taken separately, the distributor of insurance products shall provide an adequate description of the different components of the agreement or package and the way in which their interaction modifies the risk or the insurance coverage.

According to Article 522 (6) of IA-1 where an insurance product is ancillary to a product or service that is not insurance, as part of a package or the same agreement, the distributor of insurance products shall offer the policyholder the possibility of purchasing the product or service separately. This provision shall not apply where an insurance product is ancillary to an investment service or activity, as defined in the

law governing the financial instruments market, or to investment funds and alternative investment funds as defined in the laws that govern investment funds and alternative investment funds, or to supplementary pension insurance, as defined in the law governing the supplementary pension insurance, or to a credit agreement, as defined in the law governing consumer credit, or to a payment account as defined in the law governing payment services, services issuing electronic currency and payment systems.

According to Article 522 (7) of IA-1 in the cases referred to in Article 522 (4) – (6) of IA-1 the distributor of insurance products shall specify the demands and needs of the policyholder in relation to the insurance products that form part of the overall package or the same agreement.

According to Article 522 (8) of IA-1 the Article 522 (4) – (7) of IA-1 shall not prevent the distribution of insurance products which provide coverage for various types of risks (multi-risk insurance policies).

C. Notifying policyholders during the term of an insurance contract

Article 523 (1) of IA-1 provides that during the term of the insurance contract referred to in Article 521 (1) of IA-1, an insurance undertaking shall notify policyholders about:

1. a change in the company name, the legal form of organisation, the head office or the address of an insurance undertaking or the insurance undertaking's branch through which the insurance contract was entered into;

2. any changes to the data referred to in points 6, 8, and 12 of Article 522 (1) of IA-1 or of the data referred to in points 1 through 5 of Article 522 (3) of IA-1, provided that such changes arose due to a change in regulations.

According to Article 523 (2) of IA-1 during the term of the insurance contract referred to in Article 522 (3) of IA-1, an insurance undertaking shall also notify policyholders annually concerning:

1. the balance of the profit participation;
2. in the case of the insurance referred to in point 21 of Article 7 (2) of IA-1, the balance of the policyholder's benefits, including the rate of return.

D. Manner of providing data

Article 524 (1) of IA-1 provides that a distributor of insurance products shall provide the policyholder or potential policyholder the information referred to in Articles 521 to 523 of IA-1 hereof written in the Slovenian language. The data given shall be understandable, and represented honestly, fairly and professionally in accordance with the best interests of policyholders.

According to Article 524 (2) of IA-1 without prejudice to the provisions of the law governing the protection of consumers against unfair commercial practices, the information referred to in the previous paragraph, provided by the distributor of insurance products to the policyholder or potential policyholder, including marketing communications, shall be fair, clear and not misleading. Marketing messages shall always be clearly identifiable as such.

According to Article 524 (3) of IA-1 notwithstanding the provisions of the first paragraph of the same article, the distributor of the insurance products may provide the policyholder or potential policyholder of data from the first paragraph of the same article exclusively via electronic mail, when explicit written consent from the policyholder or potential policyholder consenting to communication in such manner, whereby the policyholder or potential policyholder shall be notified in writing that this consent may be withdrawn at any time, by electronic mail or otherwise.

E. Time for withdrawal

According to Article 525 of IA-1 the individual policyholder of life insurance may, within 30 days after receiving a notification in accordance with Article 522 of IA-1, withdraw from the contract.

F. Content of general conditions and notifications

According to Article 526 of IA-1 the text of the general conditions of insurance and the notifications referred to in Articles 521, 522 and 523 of IA-1 shall be unambiguous, transparent, comprehensible, and in Slovene.

G. Compulsory insurance

According to Article 527 of IA-1 the insurance contract for compulsory insurance shall comply with the provisions prescribed by IA-1 and other laws governing compulsory insurance.

H. Obligations of the insurance undertaking

According to Article 560 of IA-1 the insurance undertaking shall ensure that its distribution of insurance products is carried out only by persons referred to in Article 558 (1), (3), (6) and (8) of IA-1.

I. Remuneration for the distribution of insurance products

According to Article 527.a (1) of IA-1 distributors of insurance products are paid and pay other distributors, or assess the performance of distributors of insurance products employed or otherwise in a contractual relationship with the distributor, consistently with their duty to act in accordance with the best interests of the policyholder. In particular, a distributors of insurance products shall not make arrangements relating to remuneration, sales or other agreements in a way that could provide an incentive to themselves or distributors of insurance products that work for them to recommend to the policyholder a particular insurance product, when a distributor of insurance products could offer another insurance product that would better meet the needs of the policyholder.

According to Article 527.a (2) of IA-1 the insurance undertaking shall inform the policyholder before the conclusion of the insurance contract of the potential types of remuneration which, in relation to the insurance contract, are given to those who are employed in the insurance undertaking or otherwise in a contractual relationship with it.

According to Article 527.a (3) of IA-1 if the policyholder has to make any payment, other than the ongoing premiums and scheduled payments under the insurance contract after its conclusion, then the insurance undertakings shall comply with the ninth paragraph of Article 545 of IA-1.

J. Additional requirements with respect to insurance investment products

Article 528.a – 528.i provides additional requirements for the distribution of insurance investment products to the requirements of Articles 524, 527.a, 545, 546 and 551 of IA-1.

IV. COMPULSORY INSURANCE IN TRAFFIC

According to Article 136 (1) of IA-1 in addition to the conditions stipulated by Articles 134 and 135 of IA-1, prior to engaging in compulsory insurance in traffic, an insurance undertaking from a Member State shall submit to the Insurance Supervision Agency a certificate from the Slovenian Insurance Association which shows that the insurance undertaking from a Member State:

1. is a member of the Slovenian Insurance Association;
2. has joined the guarantee fund and compensation body as prescribed by CMTLA, and has undertaken the financing of the guarantee fund and compensation body, and fulfils other obligations required for the operation of the guarantee fund and compensation body (requirements related to the compensation body apply for third party liability insurance of vehicle owners only);
3. has communicated the name and address of the representative as stipulated by CMTLA (this requirement applies to third party liability insurance of vehicle owners only).

In accordance with Article 7 (1) of IA-1 the conduct of Insurance business presents both the conclusion and execution of insurance contracts.

Meaning that an insurance undertaking from a Member State must meet the conditions of Article 136 (1) all the time, also in the case it operates in the run-off insurance business. That means that an insurance undertaking does not conclude insurance contracts relating to compulsory insurance in traffic, but it merely executes them.

According to Article 1 of the CMTLA the types of compulsory insurance in traffic are:
- accident insurance of passengers in public traffic, except for passengers in air traffic;
- third party liability insurance of vehicle owners (automobile third party liability insurance);
- third party liability insurance of boat owners;
- insurance of aircraft owners against liability for damages caused to third parties, passengers, baggage and cargo.

According to Article 136 (2) of IA-1 notwithstanding the provisions of Article 134 and 135 of IA-1, an insurance undertaking from a Member State may engage in compulsory insurance in traffic only if the insurance undertaking delivers the general and special policy conditions for these insurances to the Insurance Supervision Agency at least one month prior to their application.

According to Article 136 (3) of IA-1, if the Insurance Supervision Agency concludes that the insurance conditions referred to in the preceding paragraph do not comply with regulations, it shall order an insurance undertaking from a Member State to harmonise its insurance conditions with the regulations. If the insurance undertaking from a Member State fails to comply with the order within the time limit specified by the order, the Insurance Supervision Agency shall notify the supervisory authority of the Member State of the insurance undertaking.

The insurance undertaking which registers the performance of insurance business in insurance class 1 (accident insurance) and is, within this scope, to insure the passengers on public traffic against the consequences of an accident, without at the same time registering for example the insurance class 10 (vehicle liability insurance), 11 (liability insurance when using aircraft or other flying machines) or 12 (liability insurance when using vessels), shall be subject to the abovementioned special rules of CMTLA and to Article 136 of IA-1.

V. DECISION ON DETAILED CONTENTS OF PROVISIONS OF SOME INSURANCE CONTRACTS

Decision on detailed contents of provisions of some insurance contracts is available on the website of the Insurance Supervision Agency (https://www.a-zn.si/wp-content/uploads/azn00216.pdf).

VI. GENERAL GOOD RULES ACCORDING TO ARTICLE 11(1) OF THE IDD

It should be noted that Slovenia has imposed stricter regulation in accordance with article 11 (1) of the IDD in Article 528.d (6) of IA-1 (Assessment of suitability and appropriateness and reporting to policyholders and potential policyholders).