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The Greek Draft Law harmonising the IDD

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The highly anticipated Draft Law on the transposition of the Insurance Distribution Directive (Directive 2016/97 - IDD) into Greek law was made available for public consultation on 21.06.2018. This brief note focuses on the main particularities and derogations the Greek law drafters propose; it is noted, however, that the Draft Law has not reached the Hellenic Parliament yet, thus, it is still subject to possible amendments during its processing through parliamentary proceedings.

A. (Re)Insurance intermediaries

- **Categories of (re)insurance intermediaries.** (Re)insurance intermediaries established in Greece may either be insurance agents, coordinators of insurance agents (which is a form of organised business of insurance intermediaries, often attached to particular insurance undertakings), insurance brokers and ancillary intermediaries. Thus the draft abolishes the fourth currently existing “insurance consultants”, who are single intermediaries and will automatically be classified as insurance agents. A broker cannot also be an agent, while an agent, a coordinator and a broker cannot also be an ancillary intermediary. Intermediaries currently registered in more than one categories, which is quite often, shall select by 15.09.2018 which one they will maintain, otherwise they will, by 01.10.2018, be deleted from the Special Registries.
- **Registration.** The intermediaries shall be registered in the Special Registries of the local Chambers of Tradesmen or the Trade Departments of Commercial Chambers, while the Central Union of Greek Chambers shall organise the Single Information Point linked to the EIOPA site.
- **Incompatible capacities.** Intermediaries cannot at the same time be general directors or directors or representatives of an insurer, whereas an insurer’s employee cannot be an insurance agent or broker.
- **Knowledge and skills.** Insurers may certify that the ancillary insurance intermediaries they cooperate with meet the necessary knowledge and skills requirements. They cannot do so with respect to their employees.
- **Professional indemnity insurance.** Insurers may certify that they take on full responsibility for intermediaries’ actions, unless they are insurance brokers.
- **Protection against financial inability.** A client has settled its obligations upon paying the premium to an intermediary in good faith, while the insurer has only settled its obligations to the client when the client actually receives the insurance money.

B. Cooperation between insurance distributors and with clients

- A written cooperation agreement between an insurer and an intermediary must be executed; cooperation between intermediaries is permitted only if they are of the same category.
- Insurers and intermediaries may only cooperate with registered intermediaries when it comes to regulated insurance mediation services.
- **Remuneration.** Insurance agents and coordinators shall be remunerated only by the insurers, whereas insurance brokers may be remunerated either by the insurers or by the clients, in which case a relevant written agreement shall be executed with the minimum content provided in the Draft Law.
- An intermediary shall cooperate with other intermediaries for the distribution of an insurer's products only with the latter's prior approval.
- If the contract between an insurer and an agent or coordinator is terminated for any reason, compensation shall be paid equal to the amount of the commission the intermediary would be entitled to receive for the three years following the termination, on the basis of its production, provided that said production remains with the insurer. The insurer shall have the burden to prove that the premium production does not stay with it. Equal payments shall be made in the event of retirement, while in the event of total incapacity or death, the insurer shall pay an amount equal to the **commission of four years. There are limited reasons for which an insurer shall have no payment obligation.**
- **Cover notes.** Where an insurance policy cannot be issued immediately, an intermediary may issue cover notes in the cases of large risk insurances, professional customers (in the sense of the MiFID II provisions) and co-insurance.
- **Advice is obligatory.** Advice in the sense of personal recommendation to the clients is obligatory for all insurance types other than for large risks, obligatory insurances (including MTPL) and in the case of a "professional customer" (under MiFID II). Insurance brokers shall advise their clients on the basis of a fair and personal analysis of the insurance products available in the Greek market.

C. General principles for business conduct and provision of information; fees

- **Business conduct.** The Draft Law specifies the distributors' general obligation under the IDD to act honestly, fairly, professionally and in accordance with the best interest of their clients, providing for obligations to render specific information to the clients, and to avoid unfair competition practices both precontractually and throughout the term of the insurance agreement.
- **Fees.** The remunerations and/or evaluations of insurance distributors and their employees shall not grant them a motive to promote a particular insurance product, if another product would better meet the client's demands and needs.

D. Sanctions and Regulatory powers

- **Administrative sanctions.** The Draft Law provides for a range of administrative sanctions from a reprimand

to a fine up to €5 million or 5% of the total annual turnover, or twice the amount of the profits gained or losses avoided, or even a temporary or permanent deletion of the intermediary from the Special Registry. If the distributor is a legal entity, sanctions may be also imposed on the person(s) responsible for the insurance distribution activities, and on any other person deemed responsible for the violation, whereas in the case of insurers, sanctions may be imposed on the members of their management.

- **Publication.** The administrative sanctions imposed shall be published on the website of the Bank of Greece or shall be notified to EIOPA.

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