

Kindlustustegevuse seaduse ja võlaõigusseaduse muutmise seadus
seletuskirja lisa 1
Teiste riikide ülevaade IDD artikli 3 rakendamise kohta
märts 2025

(seletuskirja lisa on inglise keeles, et säilitada Eesti Kindlustusmaaklerite Liidu sisendi
originaalversioon)

Request for information from the Estonian Insurance Brokers Association with regard to the transposition of IDD Article 3.1 (possible registration of ancillary insurance intermediary by insurance intermediaries) into national law

QUESTION: Does your national legislation allow an insurance intermediary (broker and/or agent) to register an ancillary Insurance intermediary as their representative under the provisions of IDD Article 3.1 provide that the insurance intermediary assumes full responsibility for the action of such an ancillary intermediary? Please explain.

Belgium	<p>In Belgium, the ancillary intermediary has to register itself with the supervisory authority (FSMA) but can mention it is acting under the responsibility of an insurance agent/broker. In that later case; if there is a “problem” concerning the insurance distribution activity of the ancillary intermediary, the FSMA will turn to the insurance broker/agent.</p> <p>Additional information: in Belgium we have another category of insurance intermediary: ‘subagent’. The subagent is not ‘ancillary’ active in insurance distribution and falls always under the responsibility of an insurance broker/agent.</p> <p>Here's what the Belgian legislation resulting from the transposition of the IDD stipulates with regard to intermediaries operating on an ancillary basis:</p> <p>In the context of insurance distribution, an insurance intermediary on an ancillary basis is any natural or legal person other than a credit institution or investment firm who, in return for remuneration, takes up or carries out the activity of insurance distribution on an ancillary basis.</p> <p>The following conditions must be met:</p> <ul style="list-style-type: none"> • the distribution of insurance does not constitute the principal professional activity of this individual or legal entity; • the individual or legal entity distributes only certain insurance products that complement a good or service; • the insurance products concerned do not cover life or liability insurance risks, unless such cover is complementary to the goods or services provided as part of the intermediary's main professional activity. <p><u>An insurance intermediary acting on an ancillary basis may act under the responsibility of an insurance company or an insurance broker or agent but may also act with full responsibility for insurance distribution.</u></p>
France	<p>The French insurance code places the insurance and reinsurance intermediary and the ancillary insurance intermediary on an equal footing with regard to their registration (article L. 512-1), their good repute (L. 511-3 and L. 512-4) and their civil liability (L. 512-6). <i>In principle</i>, each is responsible for themselves</p>

	<p>In France, insurance intermediaries can be registered in the following categories : “Agent général d'assurance” (AGA), “mandataire d'assurance” (MA), “courtier en assurance” (COA) or “mandataire d'intermédiaire d'assurance” (MIA). An ancillary intermediary is a distributor registered under one of these intermediary categories (unless it meets the derogatory conditions) but whose practice is ancillary to a principal activity.</p> <p>An MIA is an insurance intermediary mandated by another intermediary (including an insurance broker), its registration may be requested by the MIA itself or by the broker.</p> <p>The insurance broker's (COA) conditions of practice are indeed the same whether it is acting on a principal or ancillary basis. In the case of the MIA, it must meet all the conditions of access to the profession of insurance intermediary under the following conditions:</p> <ul style="list-style-type: none"> • professional competence (level 2, as opposed to level 1 for couriers) (article R. 512.10), • good repute, • professional liability insurance underwritten by himself, by the broker on behalf of the MIA, or the broker assumes full responsibility for the acts of his MIA (article L. 512-6) • financial guarantee in the event of collection of funds • professional association membership • ORIAS registration <p>In addition, you will find attached our FAQ dedicated to MIAs (in French).</p>
Germany	<p>yes, in Germany it is allowed for an insurance intermediary (broker and/or agent) to register an ancillary insurance intermediary as their representative under the provisions of IDD Article 3.1 provided that the insurance intermediary assumes full responsibility for the actions of such an ancillary intermediary – the legal basis is § 34d Abs. 6 Gewerbeordnung (industrial code).</p> <p>Attached please find an application form, that is to be used when an ancillary intermediary wants to exempt himself from the registration-duty by claiming to work as a representative of an insurance intermediary that already has a registration and permission by the national authority (in Germany: Chambers of Commerce).</p>
Hungary	<p>Please note that the <u>Hungarian legislation allows</u> certain type of insurance intermediaries to register an ancillary insurance intermediary as their sub-intermediary. These are the <u>insurance broker</u> and the <u>multiple insurance agent</u>.</p> <p>For your information, both types of intermediaries (i) can carry out insurance distribution activities only with a <u>licence</u> from the Hungarian National Bank and (ii) allowed to distribute <u>competing products</u>.</p> <p>Here is the legislation, with <i>comments</i> below: <u>Section 373/A of Act LXXXVIII of 2014 on the Business of Insurance</u></p> <p>(1) Ancillary insurance intermediaries may only be mandated by insurance companies, or brokers or multiple agents.</p> <p><i>It is not allowed to carry out insurance distribution for different type of principals simultaneously (e.g. one mandate from insurer ‘A’ and one mandate from broker ‘B’).</i></p>

	<p>(2) A person acting as an auxiliary insurance intermediary may not accept simultaneously the mandate of more than one principal to carry out insurance distribution activities.</p> <p><i>It is not allowed to carry out insurance distribution for more than one principal in the given type (e.g. one mandate from broker 'A' and one mandate from broker 'B').</i></p> <p>(3) The principal of an ancillary insurance intermediary shall be held responsible to ensure that the intermediary complies in carrying out insurance distribution activities with the rules on the provision of information relating to product features, and where several different products are available, to conduct needs assessment covering the full spectrum of such available products.</p> <p><i>An ancillary insurance intermediary may always carry out his distribution activity according to the rules applicable to his principal (insurer, broker, multiple agent) who is responsible to ensure this.</i></p> <p>(4) An ancillary insurance intermediary may not enter into any other agency or other legal relationship - which are not considered an employment relationship - with others for the pursuit of ancillary insurance distribution activities.</p> <p><i>The ancillary insurance intermediary may not have any additional sub-intermediaries, only employees.</i></p>
Italy	<p>To register as an ancillary intermediary in the Italian RUI (register), it is essential to comply with a series of specific rules and registration requirements as follow</p> <p><u>Main Activity:</u> The intermediary must carry out a primary professional activity that is different from insurance distribution. This primary activity should be complementary to the insurance products offered.</p> <p><u>Type of Products:</u> The intermediary can only distribute certain insurance products that do not cover life or liability insurance, unless such coverage complements the goods or services provided within their main activity.</p> <p><u>Section of Registration:</u> Ancillary intermediaries must register themselves in Section E) of the RUI if they operate as collaborators of other intermediaries (registered in A or B or D section) with evidence of the ancillary nature of their activity, or in Section F) if they operate under direct control of an Insurer.</p> <p>So they do not carry out intermediary activities under the formal supervision and surveillance of an agent or broker.</p> <p>IVASS (the Italian Supervisory) clearly explained in FAQ 1.12 that "a person or a company cannot be registered simultaneously in Section E) as "contributor" for some main intermediaries and as "ancillary" for others main intermediaries</p> <p>The issue was also raised in the public consultation to document Ivass n. 2/2019 that led to the enactment of Measure 97 of 4 August 2020 (amending, among others, Regulation 40/2018) and IVASS has downgraded the problem to purely operational and not legal.</p> <p>The optionality in the Section of Registration leads to a critical situation as a limit to the freedom of enterprise, requiring the Insurers and main intermediaries that operate with alternative channels (car dealers, travel agencies, etc.) to limit their operations in terms of solutions distributed through them towards customers, especially in the life and RC sector.</p> <p>Unlike sub-agents, ancillary intermediaries are not registered as quasi-subordinate collaborators by Agents or Brokers but rather make direct mandate agreements with</p>

	Insurance Companies or, at most, stipulate collaboration agreements with Agents or Brokers, nevertheless responding personally for their work in the case of any non-fulfilment, also by means of their compulsory professional civil liability policy.
Lithuania	According to the Lithuanian legislation, ancillary insurance intermediaries are registered by insurers following the same rules as agents.
Slovakia	<p>Slovakian national legislation requires that all ancillary insurance intermediaries, except those which fulfil exception under the provisions of IDD Article 1.3, shall be registered as representatives of an independent insurance agent or representatives of an insurance undertaking.</p> <p>If the ancillary insurance intermediary is registered as a representative of the insurance undertaking, his legal position is the same as the position of tied insurance agent of the insurance undertaking.</p> <p>If the ancillary insurance intermediary is registered as a representative of the independent insurance agent, his legal position is similar as the position of the subordinate insurance agent of the independent insurance agent, with allowances in relation to professional qualification and mandatory examinations.</p>
Spain	<p>According to our national law:</p> <p><i>Insurance intermediaries may enter into commercial contracts with ancillary insurance intermediaries who carry out distribution activities on behalf of such intermediaries. Ancillary insurance intermediaries will not have the status of insurance intermediaries.</i></p> <p><i>Ancillary insurance intermediaries will carry out their activity under the direction, administrative liability regime, professional civil liability regime, and financial capacity regime of the intermediary for whom they act.</i> Therefore, insurance intermediary assumes full responsibility for the actions of such an ancillary intermediary.</p> <p><i>Ancillary insurance intermediaries must identify the identity and registration details of the intermediary on whose behalf they act.</i></p>
Sweden	<p>According to Swedish law, an insurance intermediary can register an ancillary insurance intermediary as their representative. However, this applies only if the insurance intermediary assumes full responsibility for their actions (pure financial loss) and the distribution is limited to the following insurance products:</p> <ul style="list-style-type: none"> • Insurance products that complement a good or a service. • Insurance products that do not include life insurance or liability insurance, except when such coverage complements the good or service that the intermediary provides as their main professional activity. <p>(the definition of a tied ancillary insurance intermediary in Swedish law: an ancillary insurance intermediary who has entered into an agreement with one or more insurance undertakings or insurance intermediaries to distribute the insurance products specified in sections 20b and 20c, provided that the agreement stipulates that the insurance undertaking or the insurance intermediary is liable for pure financial loss.)</p>
UK	<p>In the UK, this type of ancillary intermediary would be known as an Appointed Representative (AR) and the insurance intermediary would be regarded as their Principal and must assume full responsibility for their AR (or ARs if they have more than one.)</p> <p>One aspect of this is the requirement to ensure that the Principal's professional indemnity insurance cover extend to include the actions/negligence of the AR when the AR is acting in that capacity.</p>

	<p>We also have a category of AR that is restricted in its activities to making introductions only to their Principal and this type of AR is (unsurprisingly) known as an Introducer Appointed Representative (IAR).</p> <p>The UK conduct regulator (the Financial Conduct Authority – FCA) introduced more stringent obligations on principal firms at the end of 2022, following concerns that there was a lack of effective risk management from principal firms that have ARs (in the onboarding and ongoing oversight of ARs, for example).</p> <p>Link to further information on the FCA’s expectations in this area - https://www.fca.org.uk/firms/appointed-representatives-principals</p>
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