

# Life insurance in Luxembourg: A centre of expertise for a cross-border distribution



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## Foreword

This brochure is designed to provide a basic insight into the structure of the Life Insurance industry in Luxembourg together with the legal, regulatory, accounting and tax framework.

This brochure has been prepared by auditors, tax and business advisers, who are members of the Insurance group of PricewaterhouseCoopers in Luxembourg.

Every effort has been made to ensure the accuracy of the information contained in this guide. In view of its purpose, the reader will appreciate that PricewaterhouseCoopers is unable to accept any liability for any errors or omissions.



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# Introduction

As at January 1, 2003, 54 insurance companies were registered in Luxembourg<sup>1</sup>. The Luxembourg life insurance sector boomed in the nineties, mainly thanks to the business carried on under the freedom of services regime, which accounts for approximately 95% of the life premiums written by Luxembourg companies.

In the past ten years the financial market in Luxembourg has undergone remarkable growth in various areas. The fact that there are 175<sup>2</sup> banks and 1,919<sup>2</sup> investment funds, managing EUR 849 billion<sup>2</sup>, is proof of the enormous involvement in this key area, both for foreign investors and financial groups with transnational business.

There are many reasons that have encouraged these groups to make Luxembourg a place of choice for their operations. This is due to a need to react to the various constraints implied by the market approach to freedom of services regime.

Among the most important advantages of Luxembourg as a choice of location are the following:

- A central position, in the heart of the European market that is easily accessible from most of the main European capitals,
- A highly skilled, multi-lingual work force,
- Great political, economic and tax stability, which is essential for carrying out a business focussed on the long term,
- A practical attitude by the authorities regarding European directives, allowing flexibility of operation.

This brochure is designed as a general guide for performing life insurance business in Luxembourg, both for setting up a life insurance company and for its operation. The brochure includes all main legal and regulatory requirements in force as at June 30, 2003. Many accounting, legal and regulatory changes are anticipated in the months and years to come, such as:

- At Luxembourg level, developments related to the transposition of the Directive on Insurance Intermediaries and the law modifying the statutes on the fight against money laundering and terrorist financing;
- At European level, working parties have been set up to handle, among other things, the following key issues:
  - The Solvency II issue, in order to bring solvency requirements into line with the risks actually covered by insurance companies and to encourage them to better assess and control these risks;
  - The guarantee fund;
  - Electronic commerce and insurance with its influence on the freedom of services regime.
- The application of international financial reporting standards (IFRS), notably including any aspects related to the definition of insurance products.

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<sup>1</sup> Commissariat aux Assurances in Luxembourg

<sup>2</sup> Commission de la Surveillance du Secteur Financier, Newsletter dated July 19, 2003

## II. The authorisation

### 1. Definition of the authorisation

Except for the provisions related to the freedom of services regime, any individual or company wishing to carry out insurance operations as an underwriter, in Luxembourg or from Luxembourg, must firstly be authorised by the Ministry of Finance, which is responsible for supervising the private insurance sector (traditionally and currently the Treasury Department).

The authorisation is granted for each specific insurance field. The various fields of life insurance are as follows:

- Life insurance, death insurance, mixed insurance, income insurance – other than marriage and birth insurance – not related to investment funds as well as the supplementary insurance of these policies,
- Marriage insurance, birth insurance,
- Life insurance, death insurance, mixed insurance and income insurance related to investment funds,
- Permanent health insurance,
- Tontine operations,
- Capitalisation operations,
- Group Pension Fund management operations.

Any company applying for authorisation to extend its services to other fields must submit a specific business plan.

All agreements between a Luxembourg company performing group life or non-life business and a company performing the other type of business are also subject to authorisation by the supervisory authorities (the “Commissariat aux Assurances” - “CAA”-“the Insurance Commission”), when there is a financial, business or administrative relationship between these companies.

### 2. Conditions of the authorisation

Authorisation is subject to transparency of the direct or indirect shareholding structure of the company. The authorisation granted to a Luxembourg company implies notification to the Insurance Commission of the identity of the shareholders or partners. This information must be provided for all the individuals or companies that could, due to the importance of their shareholding, substantially influence the running of the business. The integrity of these shareholders or partners must be satisfactory, bearing in mind that they must guarantee fair and cautious management of the company. Any modification in the individuals or companies that have a qualified shareholding (more than 10%) in a Luxembourg insurance company, as well as when they exceed certain thresholds regarding the interest held (20, 33 and 50%) in such company, must be notified in advance to the Insurance Supervisory Authority.

The central management of the Luxembourg companies must be established in the Grand-Duchy of Luxembourg.

Only companies with a corporate object that is limited to insurance business and directly related operations may obtain authorisation. In addition, Luxembourg companies may only obtain authorisation if they are set up as a Public Limited Company, a Limited Partnership, a Mutual Insurance Association, a Co-operative structured as a Public Limited Company or a European Company, when this is created.

No insurance company may directly carry out both life and non-life insurance business on the Luxembourg territory. Foreign companies performing both life and non-life business in their home country may only set up agencies or branches in Luxembourg that are not involved in life insurance. These companies may only perform the life insurance business in Luxembourg through a subsidiary.

### 3. Application file

#### 3.1 General contents

Article 31 of the Law dated December 6, 1991 (as amended) includes the list of information to be included in the application for authorisation. For a Public Limited Company, the essential items related to the authorisation are as follows:

- The Articles of Association,
- The identity, profession, nationality of the directors and those of the persons in charge of the company management (a curriculum vitae describing the professional background of the directors and the main managers is usually attached to the file, as well as a certificate of good conduct),
- The business plan (see below),
- Proof that the guarantee fund has been set up,
- The system for appointment and the name of the independent auditors.

#### Non-Luxembourg companies

In addition to the identity of the managers and the business plan, non-Luxembourg companies, in other words those that operate in the Grand-Duchy by means of a branch, must prove that they have operated a business activity for at least 3 years in the class of business that the authorisation is applied for, and provide the following information:

- The EU branches must provide a certificate issued by the competent authorities of the country where the registered offices are located, accrediting that they have the minimum guarantee fund or, if not, accrediting the minimum solvency margin, whichever amount is higher,
- The non-EU branches must provide proof that the deposit represented by a fraction of the guarantee fund has actually been provided,
- Any company that does not have its registered office in Luxembourg must provide, in addition, proof that it has a general representative with domicile in, or that has chosen Luxembourg as a domicile. Such person must hold sufficient authority to enter into contract with third parties on behalf of the company, including the authorities and jurisdictions in Luxembourg.

The business plan of foreign companies, along with the observations by the CAA, is forwarded to the competent authorities of the country where its registered offices are located, which must give its opinion within three months. If there is no reply at the end of this term, the opinion of the authorities consulted is deemed to be favourable.

#### 3.2 Presentation of the company

The structure of the company in process of incorporation may be submitted. In addition to the articles of association and the identification of the managers, mentioned in the Law dated December 6, 1991, the dossier must also consist of the following:

- A description of the company's shareholding structure: for example a brief presentation of each shareholder must be submitted (main business, home country), as well as what his/her level of shareholding is in the company,

- The planned organisational structure of the company (board of directors, management), as well as the group control structures,
- The management organisation: the IT and human resources implemented for portfolio, administrative and accounts management,
- The investment policy: what kind of assets, and in which financial markets they are acquired to cover the commitments,
- A presentation of the distribution network: in an appendix to the business plan itself. It is advisable to point out which distribution methods the company plans to set up for its portfolio. This part is a supplement to the section referring to the forecast premiums in the business plan.

### 3.3 Scheme of operations

Chapter 2 of the grand-ducal regulation dated December 14, 1994 specifies the types of authorisation and details the contents of the scheme of operations. In summary, the scheme of operations must contain the following specifications and justifications:

- (a) The kind of guaranteed risks, the insurance proposals and the policies' general terms and conditions,
- (b) The rates envisaged for each category of operations and for the life insurance fields, an explanation of the technical bases for the calculation of premiums, the mathematical provisions and the buyback and reduction values,
- (c) The main guidelines regarding reinsurance,
- (d) For Luxembourg companies, the elements composing the minimum guarantee fund, and, for foreign companies, the solvency margin calculation of the company,
- (e) The forecasts of the cost for setting up administrative services and production network, and, in addition, a business plan for the first three financial years, stating the following:
  - The forecasts regarding management expenses, in particular the general expenses and commission,
  - The forecasts related to premiums and claims,
  - The expected cash flows of the company,
  - For Luxembourg companies, the forecasts related to the financial resources to be used for covering the commitments and the solvency margin.

The business plan of foreign companies must include the balance sheet and the profit and loss account for the last three financial years.

## 4. Preliminary notification of the technical basis

According to Article 3 of the grand-ducal regulation dated December 14, 1994, the technical basis applied to calculate the rates and the technical provisions, as well as their subsequent modifications must be notified to the Insurance Commission at the time of implementing the relevant contracts at the latest.

The following must be stated as the technical basis:

- The definition of the mortality and disability tables etc. used, including any possible adjustments,
- The currency or currencies in which the commitments are stated,
- The technical rate for each currency and, if applicable, the increased rate used and, in the latter case, with the period for which they will be applied,
- The charges and loads,

- The formulas used for calculating the rates of the actual inventory and commercial premiums,
- The formula used for calculating the values of the technical provisions and the buyback values,
- The methods and the formula used, if applicable, to calculate the deferred acquisition cost,
- One or more samples of the evolution of a contract that specifies the hypotheses used, indicates the premium resulting from the technical basis and redefines the values of the technical provisions and buyback values for the different years of the contract,
- For unit-linked products, a description of the investment policy pursuant to Article 11 of the grand-ducal regulation dated December 14, 1994 and the circular letter 2000/8 of the Insurance Commission as well as financial objectives for internal funds.

## 5. Business Plan

The company must establish a detailed plan ("Business Plan"), consisting of a simulation of the business with all the proposed products.

Apart from the hypotheses related to the rates and calculation for reserves, the company must also detail the actuarial hypotheses used for the first years of the contract. These are composed mainly of the following: the production forecast for each financial year (number of contracts written, average premiums), the claims for which the rules may be differentiated from those used for the premium ratings. The amounts to be registered in the intended accounts will depend on these hypotheses and the technical features of the contracts.

The Business Plan also includes forecasts of costs stemming from the business of the company (leases, salaries and any other general expenses, commission for obtaining contracts, taxes, etc.). In this section the costs related to setting up the company must be distinguished from the operation costs. It must also state the trends forecast during the development of the company business.

The Business Plan must take into account the various specific technical and financial elements in the insurance business: providing mathematical reserves and the capital and reserves included in the liabilities of the balance sheet, the solvency margin, the bonuses and rebates accounts and the financial income and expenses.

The probable cash flow statement of the company, as well as the annual results before and after tax will be those, resulting from the various items stated in the Business Plan.

## 6. Authorisation of the manager

The Law dated December 8, 1994, completed by circular 97/5, defines the conditions for authorisation of the managers of Luxembourg companies and the general representatives of the company branches of third countries by the Ministry that is responsible for supervising the insurance sector.

The manager must specify that he/she has the required professional knowledge, the professional integrity and standing, and be resident or have chosen residence in the Grand-Duchy of Luxembourg. In order to allow the CAA to examine the good standing of those submitted for approval, the dossier must include the following documents:

- A curriculum vitae indicating the marital status, education and qualifications obtained and the person's professional career in a chronological order,
- A statement of good standing indicating the possible involvement of the candidate in the management of any companies that had undergone financial difficulties when in operation or shortly after terminating their business,
- The address of the candidate in the Grand-Duchy of Luxembourg or close to the Grand-Duchy of Luxembourg,

- The undertaking of the candidate that he/she does not accept and will not accept other duties that are not compatible with the main post as manager of an insurance company,
- A copy of the agreement by the Board of Directors of the insurance company in which he/she was appointed manager of the company with a copy of his/her job description.

The authorisation dossier must include information on the measures planned for substitution of the manager in the event of absence.

#### *6.1 Justification of professional knowledge*

According to the Law dated December 6, 1991, for the purpose of justifying the required professional knowledge, the candidate must take an examination, and the Insurance Commission determines the syllabus.

The Ministry of Finance will decide whether the supporting documents submitted by the candidate are sufficient for him/her to be exempt from taking the test. However, such exemption is usually granted in the following circumstances:

- A candidate that submits a certificate officially recognising a complete 4-year law, economics or actuary higher education course, and experience of at least 3 years in an insurance or reinsurance company, or
- Accrediting having worked for a term of 10 years in an insurance or reinsurance company, of which 3 years must have been at a pre-management level.

#### *6.2 Duties of the authorised manager*

Only one manager is authorised for each insurance company.

One of his/her duties is to act as the preferred point of contact between the insurance company and the supervisory authorities. In particular, any documents that are subject to a legal or regulatory requirement must be signed by the authorised manager.

Except in the case of “force majeure”, authorisation of a new manager must precede the former manager ceasing his/her duties. In all cases, the authorisation of a new manager implies the withdrawal of the former manager’s authorisation.

The Ministry of Finance may withdraw the authorisation of the approved manager, if the conditions of such authorisation are no longer fulfilled.

# III. Distribution

## 1. Freedom of services regime

Transactions carried out under the freedom of services regime increased dramatically over the past few years and have accounted for approximately 95% of the life insurance premiums written since 1998.

### 1.1 Definition

Is defined as a transaction under the freedom of services regime (hereinafter referred to as “FSR”) any transaction through which an insurance company of a Member State, from its registered offices or from an establishment located in one of the Member States, covers risks or undertakes a commitment in the territory of another of these States. The provisions for FSR in the Grand-Duchy of Luxembourg are stipulated in the Law dated December 6, 1991 based on the 3<sup>rd</sup> Life Directive.

### 1.2 Types of Authorisation

When a company is authorised in a Member State and wishes to carry out operations for which it has been granted authorisation in another State, the authorities in the home country (in Luxembourg, the CAA) must provide the following documents to the equivalent authorities in the host country:

- (a) A certificate, issued by the competent authorities in the Member State where the registered offices are established, certifying that the company has, in its whole business, the minimum solvency margin and that the authorisation allows it to work outside its home country,
- (b) A certificate stipulating the fields that the company is eligible to work in and that there are no objections for the company to operate under the freedom of services regime,
- (c) A statement indicating the kind of risks that the company plans to cover or the commitments it plans to undertake.

For any transactions Luxembourg companies carry out under the freedom of services regime in another Member State, the company may start its activity as soon as the CAA notifies that the abovementioned information has been transmitted to the competent authority in the country of origin.

Any refusal to submit information must be duly justified and notified by registered letter. Failure to communicate information within a one-month deadline equals refusal and gives rise to an appeal to the administrative court.

Any Luxembourg company willing to carry on business under the freedom of services regime in a third country must seek the prior approval of the CAA.

## 2. Distribution in the Grand-Duchy of Luxembourg

It is forbidden for anybody to carry out any insurance operation on behalf of third parties in Luxembourg or from Luxembourg without having first obtained authorisation by the Treasury Department. The directors, general representatives, insurance inspectors, agents and brokers and any other person carrying out an insurance operation in direct contact with the insurance policyholders must also previously be authorised.

Before they can be authorised, these individuals must justify their professional integrity and good standing, as well as that they have the required professional knowledge.

The authorisation and withdrawal thereof of insurance agents and brokers are governed by two ministerial regulations dated April 25, 1994.

### *2.1 The Insurance agent*

Insurance agents are the representatives of insurance companies. They may only be authorised on written request of the insurance company authorised in Luxembourg.

Except when several companies have made a joint application, an agent may not be authorised for several companies in the same field.

### *2.2 The Insurance broker*

Insurance brokers are people who act as intermediaries between the insurance holder, who they represent, and the insurance companies authorised in Luxembourg or abroad, without being connected to one or several insurance companies.

Brokers must have professional civil liability insurance coverage.

Working as a broker is not compatible with working as an insurance agent. When an insurance agent is authorised as a broker, the authorisation as an agent is withdrawn and vice versa.

On October 2, 2001, the CAA issued a newsletter with a view to establishing the professional qualifications required to be authorised as insurance broker in Luxembourg. These requirements include general knowledge in management, according to Luxembourg principles (among which accounting, tax law, labour and social security law) and specific insurance-related knowledge.

In accordance with circular letter 02/4, any insurance brokerage company or any insurance broker must send the Insurance Commission a fact sheet on a yearly basis.

## **3. Directive on the insurance intermediaries**

A European directive on insurance intermediaries, voted on September 30, 2002, replaces the 1977 Directive. It will have to be transposed into Luxembourg law and should be applicable by the end of 2004. The registration of intermediaries on their own territory is one of the issues addressed in this directive. On the basis of their registration in their Member State of origin, insurance intermediaries will be able to carry on their business in other Member States.

## IV. Unit-linked products

Unit-linked products are products where the risk is borne exclusively by the policyholder. They represent 82% of the premiums written by Luxembourg insurers with over EUR 4.4 billion in 2002.

### 1. Types of products

Unit-linked products are divided into collective internal funds and dedicated funds. Dedicated funds increased dramatically over the past few years and for the first time in 2001 their premium value exceeded that of standard unit-linked products (EUR 2.30 million for dedicated funds compared to EUR 2.26 million for standard unit-linked products).

From a regulatory point of view (Circular Letter 2001/8), the following terminology is used:

- “Policy linked to investment funds”: policy whose investment risk is borne solely by the policyholder; this policy may be backed by internal or external, collective or dedicated funds but where there is no guaranteed return on the part of the insurance undertaking;
- “Dedicated policy”: policy partly or entirely backed by a dedicated fund; a dedicated policy may be invested in external funds and in collective internal funds, whether or not they include a guaranteed return on the part of the insurance undertaking; although this policy is generally linked to investment funds, a dedicated policy may also be a mixed policy;
- “Internal fund”: a set of assets from an insurance undertaking whether they are collective or dedicated and whether or not they include a guaranteed return;
- “Dedicated fund”: internal fund which does not include a guaranteed return and is the basis of only one policy.

### 2. Investment rules

Regulations provide investment rules in order to ensure the protection of policyholders.

For all the policies related to investment funds or for mixed policies, representative assets exclusively comprise:

- Shares of external funds
- Shares of internal funds without guaranteed return
- Liquidities capped at 20% of the policy's value

Circular letter 01/08 of the CAA specifies the rules to be complied with in terms of shares in external funds and in internal funds without guaranteed return. Investments into authorised external funds do not need to be notified to the CAA or receive its prior approval.

Dedicated funds may be set up for any policy exceeding EUR 250,000.

It is worth mentioning that the limits for dedicated funds are less restrictive than for internal collective funds. In addition, the larger the policy, the greater the flexibility. Three categories of restrictions apply according to the value of the dedicated policy (between EUR 250,000 and not exceeding EUR 0.5 million – between EUR 0.5 million and not exceeding EUR 2.5 million and policies exceeding EUR 2.5 million). For the latter policies, the instruments only need to comply with the catalogue of assets referred to in appendix to circular letter 01/08; there is no overall limit or limit per issuer required by the CAA.

# V. Conditions for operating the business

The main conditions for operating an insurance company are defined in the Law:

- Establishment of a solvency margin,
- Establishment of a guarantee fund,
- Establishment of sufficient technical reserves,
- Equivalent congruent assets to back the technical provisions.

## 1. The solvency margin

At any time, Luxembourg companies must have a sufficient solvency margin.

The elements involved and the system for calculating the solvency margin, as well as the level this must reach, depending on the commitments of the company, are determined by the grand-ducal regulation dated December 14, 1994, as modified by the grand-ducal regulation dated January 10, 2003.

The regulation adopted on January 10, 2003 transposes into domestic law two EU directives related to the solvency of insurance companies that were adopted in 2002. They notably concern the significant increase in the minimum guarantee fund and the limitation of the use of second-rate coverage. We list below the new provisions, which apply for the first time to the monitoring of accounts of financial years starting on January 1, 2003 or during 2003.

The companies performing both life and non-life insurance business must create a solvency margin for each of these businesses.

### 1.1 *The components*

This solvency margin corresponds to the net equity of the company, free from any foreseeable commitment, and the intangible items must have been deducted. This margin basically consists of the following:

- The paid-up capital;
- The legal and free reserves that are not related to the commitments;
- The profit or loss carry-forward, after deduction of the dividends to be distributed;
- The accumulative pre-emptive shares and the subordinated loans up to a certain ceiling and under certain conditions;
- At the company's request and if sufficient justification has been provided and subject to the approval of the CAA, the solvency margin may also comprise the following, under specific conditions:
  - Half of the unpaid capital;
  - Certain net capital gains;
  - The difference between the non-zillmerised mathematical provision and the zillmerised mathematical provision. At present there are no rules related to the assets representing the solvency margin.

## 1.2 Amount of the solvency margin

The amount of the solvency margin to be provided by a life insurance company is the sum of two results and can be summarised as follows:

- The first result is a fraction of 4% of the mathematical provisions, multiplied by the comparison between the amount of the mathematical provisions net of reinsurance and the gross amount of the mathematical provisions, under no circumstance may this ratio be less than 85%.
- The second result is, for the contracts of which the capitals at risk are not negative, a fraction of 0.3% of these capitals undertaken by the company, multiplied by a reinsurance factor and may never be less than 50%. This fraction is different for temporary insurance of less than five years in the event of death (0.1% or 0.15% depending on the term).

For unit-linked insurance products and for group pension fund management operations, the minimum solvency margin must be equivalent to the following:

- A fraction of 4% of the mathematical provisions, calculated as indicated above, in the case that the company accepts the investment risks, and a fraction of 1% of the mathematical provisions calculated in this manner, when the company does not accept the investment risks and on condition that the term of the contract is longer than five years and the amount assigned to cover the management expenses stipulated in the contract is fixed for a term longer than five years;
- A fraction of 0.25% of the mathematical provisions, calculated as described above, to the extent that the company does not accept the investment risks and that the amount assigned to cover the management expenses stipulated in the contract is not fixed for a term longer than five years. This amount may not be lower than 25% of the general expenses related to the policies concerned;
- A fraction of 0.3% of the capital at risk, calculated under the conditions above, providing the company accepts the mortality risk;

For tontine transactions, the solvency margin requirement equals 1% of the associations' assets.

### **Non-Luxembourg companies**

Under certain conditions, the CAA may bring down the solvency margin requirement, taking into account the ceded reinsurance.

Any non-EU company performing an insurance business in Luxembourg, in any legal manner whatsoever, must provide a solvency margin, pursuant to the provisions described above. However, only insurance operations carried out in Luxembourg are taken into account.

Branches of EU companies do not need to provide a solvency margin in Luxembourg, but must provide a certificate issued by the supervisory authorities in their home country accrediting that the same solvency margin is available as that imposed on Luxembourg companies.

## 1.3 The guarantee fund

A third of the minimum solvency margin composes the guarantee fund that, however, may not be less than EUR 3 million. This guarantee fund was increased significantly by the grand-ducal regulation of January 10, 2003, since it used to amount to EUR 0.8 million.

Half of the guarantee fund must be composed of the net assets of the company, free of any foreseeable commitment, and after deducting the intangible items. At present there are no rules related to assets representing the guarantee fund.

## Non-Luxembourg companies

The companies whose registered offices are located outside the European Union must have assets in Luxembourg for an amount at least equivalent to half the minimum guarantee fund (see above) and have a quarter of this minimum as a restricted deposit. The guarantee fund is the same as for Luxembourg companies, equivalent to a third of the solvency margin. However, the lowest level of the guarantee fund is limited to half of the minimum applicable to Luxembourg companies.

Branches of EU companies need not provide a guarantee fund in Luxembourg, but must provide a certificate issued by the supervisory authorities in their home country accrediting that they have a guarantee fund determined on the same basis as that applicable to Luxembourg companies.

## 2. The technical provisions

Sufficient technical provisions must be provided for. The technical provisions of whatever kind must be calculated contract by contract. The CAA may agree on an exception to this rule providing there is a justified reason.

The technical provisions are composed of the following:

- The mathematical provision calculated according to the actuarial rules, and for each premium rate, according to the conditions stipulated for obtaining such authorisation;
- The premium carry-forward calculated on inventory premiums (simple premiums increased by management charges);
- The additional provisions due to insufficient rates or due to actual return on the portfolio being lower than the interest rate commitment.

### *2.1 Mortality tables for calculating the technical provisions*

For products authorised prior to July 1, 1994, the tables stipulated in the authorised technical report remain applicable for calculating the technical provisions. For products marketed after July 1, 1994, there is an obligation to adopt the European mortality table, based on the general population and adapted to the kind of risk (risk of death or survival) for which the coverage is stated in the contract.

### *2.2 Notification to the Insurance Supervisory Authority*

At the end of each quarter, insurance companies must notify the CAA of the amount of the technical provisions as well as the amount of the variation during the quarter in question.

If technical provisions are not calculated pursuant to the usual rules (on an individual claim basis) at the end of each quarter, Article 10 of the grand-ducal regulation dated December 14, 1994, specifying the kind of insurance business activities of the companies, describes two flat rate methods that may be used.

The regulation also stipulates that, at the company's request, the CAA may accept a method proposed by the company.

### 2.3 *Representative assets*

The technical provisions as well as the liabilities stemming from amounts obtained by underwriting direct insurance contracts must be represented at all times by assets:

- Equivalent and congruent, in other words made out and payable in the same currency as the payable commitments that they represent.
- Taking into account the kind of operations carried out by the company in order to ensure security, yield and liquidity of the investments by the company. The company must be responsible for suitable diversification of its investments pursuant to the provisions stated in Chapter 6 of the grand-ducal regulation dated December 14, 1994, as modified by the grand-ducal regulation of January 10, 2003.

All representative assets constitute a distinct equity base whose aim is to provide a priority guarantee of payment of the obligations of the companies by virtue of the insurance contracts underwritten in the country. This priority exists as of the time that the assets representing the technical provisions are recorded in the permanent inventory. This permanent inventory is held for each type of activity.

The representative assets of Luxembourg companies regarding risks located and commitments undertaken on the European Economic Area territory must be deposited in an authorised credit institution. For prudential reasons, the Insurance Supervisory Authority requires these assets to be deposited in the country where the relevant credit institution's registered office is located. This notwithstanding, these representative assets may be deposited in Luxembourg in any credit institution authorised by the Commission for the Supervision of the Financial Sector (including branch offices). Assets representing other commitments (outside the European Union) or created by non-EU companies must be located in Luxembourg.

An agreement must be entered into between the company and the depository institution; this agreement must be subject to authorisation by the Insurance Supervisory Authority pursuant to circular letter 01/07.

# VI. Supervision of the insurance sector

## 1. The duties of the Insurance Supervisory Authority

The CAA is the controlling and supervisory body for the insurance sector. The CAA is under the authority of the Ministry of Finance, the private insurance sector being one of its areas. Traditionally, supervision of this sector is considered as part of the Ministry of Finance's duties.

The duties of the CAA are the following:

- (a) To receive and examine all applications for authorisation addressed to the Ministry of Finance;
- (b) To supervise the insurance, reinsurance and the insurance agent sectors;
- (c) To ensure co-ordination when performing government initiatives and measures to supervise an organised expansion of the insurance and reinsurance business in Luxembourg;
- (d) To follow-up the dossiers within a community and international scope;
- (e) To submit suggestions to the government to improve the legislative and regulatory environment;
- (f) To examine any other issues that the supervising Ministry of Finance may submit to it.

## 2. Resources for intervention

The first tool used for control by the CAA is the authorisation dossier. During the procedures for authorisation, the CAA pays attention to, on the one hand, the technical aspects of the dossier and, on the other hand, the financial stability and the reputation of the shareholders of the company that submits the dossier for authorisation.

In order to ascertain that the laws and regulations are applied, the CAA has a series of administrative resources (circulars, applications for information, etc.). In addition, it may take any measure in order to safeguard the interests of the insured parties. Therefore, at any time the CAA may require that a mortgage be taken out on real estate that is part of the representative real estate assets, and may require a deposit and freeze securities. If it is a company with registered offices in another Member State, it must first notify its intentions to the supervisory authorities in such State.

In order to correct the financial situation of companies when their solvency margin no longer reaches the minimum required, the CAA may demand a recovery plan that must be submitted for its authorisation.

If the solvency margin no longer reaches the required guarantee fund, or if this fund is no longer created in compliance with the regulatory provisions, the CAA may also demand a short-term recovery plan and it may also restrict or prohibit free disposal of the assets of the company. The CAA notifies the authorities of the Member States in the territories where such company is also authorised.

## 3. Additional supervision of groups

The Law dated August 8, 2000 amending the amended Law dated December 6, 1991 regarding the insurance sector specifies the provisions for additional supervision of insurance companies belonging to an insurance group.

The following are subject to additional supervision:

- Any Luxembourg company that holds an interest in at least one insurance company or one reinsurance company;
- Any Luxembourg company of which the parent company is an insurance holding company, a reinsurance company or an insurance company in a third country;

- Any Luxembourg company of which the parent company is a mixed insurance holding company.

However, when the parent company of a Luxembourg company and one or various EU insurance companies other than Luxembourg companies is the same insurance holding company, reinsurance company, insurance company in a third country or a mixed insurance holding company, the Commission may reach an agreement with the competent authorities of these EU insurance companies so that the authorities responsible for additional supervision are appointed.

The law stipulates that all Luxembourg companies that are subject to additional supervision must have adequate internal control mechanisms to create data and information to be used for the purpose of this supervision. It also stipulates the manner to carry out the additional supervision by the Insurance Commission, as well as the possibilities for applicable exemptions.

The law mentions an adjusted solvency ratio that must be calculated for all Luxembourg companies that have a holding in at least one insurance or reinsurance company and calculation of the adjusted notional solvency must be carried out on the level of any insurance holding company, reinsurance company, insurance company in a third country that is a parent company of a Luxembourg company. The methods for calculation of the adjusted and notional solvency are determined by the grand-ducal regulation of November 30, 2000.

## 4. Fees paid to the Insurance Supervisory Authority

The fees payable to the Insurance Supervisory Authority are detailed in the grand-ducal regulation dated July 8, 1992, which was amended by the grand-ducal regulation dated May 16, 2002; we summarise below the main fees applicable to insurance companies.

### 4.1 Authorisation

A fee of EUR 1,500 is payable to the Insurance Supervisory Authority for the authorisation and another fee of EUR 300 for an extension of this authorisation.

### 4.2 Annual fees

The annual fees to the Insurance Supervisory Authority payable by insurance companies with their registered offices in the Grand-Duchy of Luxembourg depend on the premium volume in the previous financial year:

- Aggregate premiums of less than EUR 3 million: EUR 6,000 per year;
- Aggregate premiums higher than EUR 3 million and less than EUR 15 million: EUR 9,000 per year;
- Aggregate premiums higher than EUR 15 million and less than EUR 100 million: EUR 12,000 per year;
- Aggregate premiums higher than EUR 100 million: EUR 15,000 per year.

The annual fees to the Insurance Supervisory Authority paid by insurance companies with their registered offices in a Member State of the European Economic Area (hereinafter referred to as the EEA), other than the Grand-Duchy of Luxembourg is EUR 3,000.

### 4.3 Agents

From the time of application for authorisation, a company submitting a candidate must pay a fee of EUR 150 per agent.

A fee of EUR 100 is payable by the company when an agent is transferred and for the extension of the authorisation of the agent to other areas.

### 4.4 Brokers

A fee of EUR 200 is paid for application for authorisation and any individual or company authorised, as a broker must pay an annual fee of EUR 400.

## 5. Annual reports

Insurance companies must send annual reports to the CAA, at the latest four months after the closing of the financial year. The contents of this annual report are listed in circular 02/3 and consist of the following:

- An insurance return (“Compte-Rendu”);
- The solvency margin statement;
- The annual statement of the assets representing the technical provisions;
- The annual accounts with the minutes of the ordinary general shareholders’ meeting in which the accounts are approved and the profits are allocated;
- The statement of deposits;
- The company’s information sheet;
- The actuary’s report;
- The special report of the independent auditor.

### 5.1 *The annual insurance return (“compte-rendu”)*

The annual insurance return consists of:

- The technical profit and loss account related to the business underwritten gross of reinsurance,
- The ceded reinsurance account,
- A non-technical profit and loss account,
- A list of twelve appendices.

### 5.2 *The solvency margin statement*

This is an annual document referring to the solvency margin and must be submitted to the CAA. This document includes, on the one hand, the items composing the solvency margin and, on the other hand, the calculation of the minimum margin to be provided, pursuant to Article 7 of the grand-ducal regulation dated December 14, 1994, as modified by the grand-ducal regulation of January 10, 2003, that specifies the types of authorisation and the conditions for operating the business of insurance companies. Facts and figures related to the computation of the solvency margin can be found under point V.1 of this brochure.

### 5.3 *The annual statement of the assets representing the technical provisions*

All insurance companies must have a permanent inventory of the representative assets and the technical provisions. The register must include all the details that fully individually identify each of the assets mentioned.

As an exception, group identification is allowed under certain conditions (see circular 00/6).

All the assets recorded in the register must be at least of the same value as the technical provisions, the liabilities towards policyholders as well as liabilities arising from the amount paid to the company in subscription of new insurance policies.

#### 5.4 *The annual accounts*

The annual accounts must be drawn up in compliance with the provisions of the Law dated December 8, 1994 regarding annual accounts and consolidated accounts of insurance and reinsurance companies subject to Luxembourg law.

The annual accounts must be an approved copy of the accounts examined by the company Auditors but may also include some additional breakdowns that may have been requested.

In an annex of the profit and loss account, the insurance company must indicate the allocation of the profits from the financial year as agreed by the general shareholders' meeting.

#### 5.5 *The company's information sheet*

This must allow the Insurance Commission records to be regularly updated. The information required notably relates to the following items: the identity of the shareholders and the make-up of Board of Directors, the shareholdings in companies subject to a solvency margin requirement and the compliance with "anti-money laundering" procedures.

#### 5.6 *The actuarial report*

An actuarial report must be sent to the Insurance Commission on a yearly basis. The standard contents of this report are listed in circular letter 03/01 of the Commission. They notably include the certification and identification of the technical bases, the certification of technical provisions, indications on the profit-participating policy as well as precisions on any additional provisions on capital at risk and on the insurance policy. The report must also include the results of various stress tests, which take into account various scenarios as regards changes in interest rates and stock market prices.

#### 5.7 *The independent auditor's special report*

In addition to the Auditor's Report on the annual accounts, and pursuant to the circular 02/1 of the CAA, the Auditor must draw up a separate report to be sent to the CAA with a copy for the audited company within four months of the closing date.

This report must include:

- The date of the audit report as well as any possible qualifications and the date of the general shareholders' meeting called to approve the audited accounts and a statement that the company fulfilled the obligation to submit its accounts related to the previous financial year;
- Certification that there is an adequate solvency margin on the closing date;
- Confirmation that the annual report of the insurance company has been established according to Chapter 3 of the circular 99/2 (replaced by the circular 00/6) issued by the CAA laying down the rules for the permanent inventory of the assets representing the technical provisions;
- A description of the internal procedures adopted by the insurance company to ensure that the investment rules for fund-related life insurance products are complied with at any given time;
- Certification that all bank accounts mentioned by the insurance company in the yearly statement of deposit conventions are covered by a deposit convention duly approved by the CAA and that they appear in the permanent inventory;
- Certification that there is no evidence of facts or conduct that could imply an infringement of insurance secrecy in its business;
- A description of the company activity that is not related to its direct insurance business.

- Certification that the compliance of the technical provisions with the stipulations in the Law dated December 8, 1994, and, in particular, in the case of life insurance companies, detail the life insurance provisions:
  - Mathematical provisions calculated according to the technical reports;
  - Additional provisions for management expenses;
  - Other additional provisions;
  - Provisions for bonuses and rebates.
- A description of the insurance company's policy regarding derivatives, and their probable influence on the net equity of the company. It must also provide figures relating to the derivatives held or issued during the financial year and upon closing. More generally, the report must describe all off-balance commitments;
- All the important operations that the company carries out with affiliated companies or investees in which it holds a participating interest of the following kind: loans, guarantees and operations not included in the balance sheet, operations related to the solvency margin items, operations related to the assets representing the technical provisions, reinsurance operations, agreements for distribution of general expenses. The report shall indicate whether the company uses internal control procedures in order to categorise the said operations.

## 6. The independent Auditor

All insurance companies must have their accounts audited by an external auditor on a yearly basis. The independent auditors who carry out these audits must be selected from a list authorised by the Insurance Commission.

Moreover, the Auditor is under the obligation to promptly inform the CAA of any fact or decision concerning the company that it may be aware of, and which is of the following nature:

- Implying an infringement of the legal or regulatory provisions stipulated in the conditions for authorisation or that govern the business of insurance companies;
- Jeopardising the continuity of the insurance business activity;
- Leading to refusal of the certificate of the accounts or an objection being raised.

# VII. Tax aspects

Insurance companies are subject to taxes applicable to all commercial companies with their registered offices in Luxembourg, i.e.:

- Corporate income tax;
- Net wealth tax;
- Municipal business tax.

## 1. Income tax

### 1.1 General features

Like any Luxembourg commercial company, insurance companies are liable to pay corporate income tax (CIT) at a rate of 22%. This tax has been increased by a surtax of 4% on the tax itself. The actual tax is now 22.88%.

In principle, the taxable basis corresponds to the accounting result corrected by certain exemptions and non-deductible charges (such as the municipal business tax, the net wealth tax and the tax on directors' fees).

### 1.2 Stipulations related to loss carry-forward

A tax loss may be carried forward, according to the provisions of Article 114 of the Income Tax Law; in other words the loss is deductible from the taxable profits with no limitation as regards time.

### 1.3 Dividends received from shareholdings

#### *Tax exemption on dividends received*

Luxembourg tax law stipulates a special system for income arising from large shareholdings (Article 166 of the Income Tax Law).

Income from shareholdings (dividends) is exempt provided that:

(a) The transferring company is:

A fully taxable resident joint stock company,

or

A fully taxable non-resident joint stock company fully liable to a tax corresponding to the corporate income tax,

or

A company resident in a Member State of the European Union and protected by Article 2 of the Directive of the EU Council dated July 23, 1990 (concerning the common tax system applicable to parent companies and subsidiaries of different Member States);

- (b) The receiving company is a fully taxable joint stock company resident in Luxembourg (the situation of branches is not dealt with in this brochure);
- (c) On the date of the dividends being allotted, the beneficiary holds or undertakes to hold such stock for a continuous period of at least twelve months. During this period the rate of the holding does not drop below the threshold of 10% or the acquisition price does not drop below EUR 1,200,000.

Insurance companies that may not benefit from the abovementioned exemption on dividends may nevertheless benefit from an exemption of 50% of those dividends distributed (article 115, 15a of the Luxembourg Income Tax Law) if the transferring company is:

- Another fully taxable Luxembourg joint-stock company,
- A joint-stock company resident in a State with which Luxembourg has concluded a double tax treaty and which is fully liable to a tax corresponding to corporate income tax,
- A company resident in a Member State of the European Union and falling under article 2 of the Council Directive 90/435/EEC, of July 23, 1990, on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (Parent / Subsidiary Directive).

*Exemption on capital gains arising from the disposal of share certificates*

The association privilege allows exemption from capital gains due to the disposal of shareholding certificates.

The eligibility conditions for this system are similar to those required for exemption on dividends, namely:

- (a) The threshold of the stock held is increased in this case to EUR 6 million or a direct holding of 10% (instead of EUR 1,200,000 million or 10% for dividends);
- (b) At the date on which the income is made available, the beneficiary has been holding or undertakes to hold the investment for an uninterrupted period of at least twelve months;
- (c) The participation must be held in a resident or non-resident fully taxable company or a company resident in a Member State of the European Union falling under article 2 of the Directive of July 23, 1990.

It should be noted that the exemption of both dividends and capital gains is subject to certain limits if the participation is not financed by own funds or if its value was reduced.

## 2. Other taxes

### 2.1 Net Wealth tax

The rate of this tax is 0.5% on the unitary value of the company on January 1 each year and is not deductible from the taxable profits for calculating income tax. The unitary value is equivalent to the net assets of the company adjusted with certain items, in particular, real estate, latent capital gains and large stock holdings.

In addition, tax paying residents may, on request, charge the wealth tax payable for the year to corporate income tax from the same year, by means of recording an amount five times the wealth tax payable in reserve before the close of the following financial year. This reserve must be kept in the balance sheet for five tax years after the year it has been charged.

## *2.2 Municipal Business Tax*

The municipal business tax (hereinafter referred to as MBT) is a tax on the operational profits. Due to the fact that, for a joint stock company, the MBT is calculated on the basis of the taxable income in such a manner that it is established by determining the corporate income tax (hereinafter referred to as CIT) an exemption in the scope of the CIT, would in fact lead to an exemption within the scope of the MBT on operating profits.

The MBT in Luxembourg city is 7.5% of the tax profits calculated for the requirements of the CIT. These profits are determined after having applied a reduction of EUR 17,500.

## *2.3 Value Added Tax*

Insurance companies are subject to VAT. Their turnover is however exempt by virtue of Article 44,1 i) of the Luxembourg VAT law and does not give rise to the right to deduct input VAT, except if the services are supplied to customers established outside the European Union.

To the extent that the turnover of the insurance companies is exempt and does not give rise to the right to deduct input VAT, the insurance companies are not basically required to register for VAT and they do not submit periodic VAT returns. Nevertheless, reporting requirements are imposed when insurance companies purchase certain goods or services from foreign providers.

The exemption is also applicable to services by brokers and insurance agents. However, the services rendered by experts in charge of estimating claims indemnity do not benefit from this exemption.

## *2.4 Tax on insurance premiums*

The premiums received by the insurance company are exempt to the extent that they are related to life insurance contracts (including unit-linked products), pension insurance, disability insurance or capitalisation insurance.

## VIII. The annual accounts

The provisions in the Law dated December 8, 1994 list the obligations regarding the consolidated annual accounts of insurance and reinsurance companies. The aim of this act is to include the European Directive of the Council 91/674/EEC in Luxembourg legislation, and from the point of view of European integration to ensure that all insurance companies are subject to the same accounting rules, thus resulting in greater compatibility of financial statements.

The main provisions are summarised below. This subject has been dealt with in a separate publication by PricewaterhouseCoopers.

### 1. General principles

#### *1.1 General provisions related to the contents and presentation of the annual accounts*

The annual accounts must reflect the true and fair view of the net equity, the financial situation and the profits of the company. In order to provide a true and fair view, the annual accounts must show the economic reality of the operations.

In order to guarantee comparability of the annual accounts over time, the structure of the balance sheet and the profit and loss account, especially regarding the form used for their presentation, must not be changed from one financial year to another. The chronology of the entries in the balance sheet and profit and loss account shown in Articles 7 and 46 of the Law must be strictly adhered to.

Any compensation between the entries of assets and the liabilities or between the expenses and income entries is forbidden. Each entry in the balance sheet and the profit and loss account must include a figure showing the amount from the previous year.

#### *1.2 Basic accounting principles*

In order to evaluate the entries in the annual accounts, the following accounting principles are applicable:

- The company is presumed to continue its business in the near future;
- The assessment methods may not be changed from one financial year to another;
- The prudence concept must be adopted, and, in particular:
  - Only profits recorded on the date of the balance sheet may be included;
  - All the foreseeable risks and possible losses arising during the current or previous financial year must be taken into account;
  - Depreciation must be taken into account, whether the financial year is closed with profits or losses.
- The income and expenses arising in the financial year of the accounts must be included, without taking their payment or collection date into consideration;
- The items of the assets or liabilities entries must be assessed separately;
- The opening balance sheet must correspond to the closing balance sheet of the previous financial year;
- The assessment of the entries in the annual accounts is based on the principle of acquisition price or replacement cost.

### *1.3 Profit and loss account*

The system for drawing up the profit and loss account is composed of a technical account, only showing the results related to the insurance business, and a non-technical account.

Personnel expenses are included under a heading of the business to which they are assigned, i.e.: acquisition expenses, claim expenses, investment expenses and management expenses. The company must define the suitable methods for assigning the staff costs depending on its activity.

## **2. The management report**

The Board of Directors must draw up a management report that is included with the annual accounts. The company auditors must verify that the management report is in accordance with the annual accounts of the financial year.

The management report must present a true and fair view of the Company's activities and the company's situation.

Pursuant to article 85 of the Law of December 8, 1994, the management report must also include indications on:

- Important events arising after the close of financial year;
- The foreseeable evolution of the company;
- Research and development activity;
- Acquisition of own shares.

# IX. Professional secrecy and anti-money laundering

## 1. Professional secrecy

The professional secrecy applicable to directors, members of management and supervisory bodies and managers and other employees of insurance companies and their agents and brokers is governed by the Law (Article 111-1). They are bound to keep the confidential information secret, which may be entrusted to them within the scope of their professional work. Revealing such information is sanctioned by sentences set forth in the Criminal Code.

Certain limiting conditions are however stipulated in which the obligation of professional secrecy no longer exists or does not exist, in particular, towards national and foreign authorities, notably in the fight against money laundering and terrorist financing, in the instances imposed by legal stipulations, to prevent and punish insurance fraud, to allow shareholders or partners to ensure the honest and cautious management of the company and finally towards reinsurance underwriters and co-insurers where required to undertake and fulfil their commitments.

## 2. Combating money laundering

A bill, which modifies the provisions on the fight against money laundering, should be submitted to the Chamber of Deputies in 2003. One of the significant changes relates to the extension of the requirements to Luxembourg non-life insurers and reinsurance captives.

To date, anti-money laundering provisions, applicable in the banking field, are also applicable to life insurance companies (Articles 86 to 89).

Generally, the law demands that life insurance underwriters obtain a certificate of proof, allowing them to identify their clients from the time they begin their business relationship, in particular, when the life insurance contracts are underwritten. These provisions are applicable to all single premiums that are over a counter-value of EUR 2,500 and all periodic premiums to be paid during one year that are over EUR 1,000. These thresholds are not applicable when there is suspicion of money laundering.

There is an exception for pension insurance underwritten within the scope of professional work as well as any premium that is established when the payment must be made by a debit to an account open in the name of the client in a credit institution that is subject to a disclosure requirement.

Life insurance companies, their managers, employees, agents and brokers are bound to fully co-operate with the authorities in Luxembourg responsible for combating money laundering:

- By providing all the information that may be required by the authorities;
- On their own initiative, by notifying any possible sign of money laundering to the Public Prosecutor of the district court of Luxembourg.

In addition, the circular letter 01/9 dated November 30, 2001 stipulates that this disclosure requirement also covers instances of companies or persons who came into contact with a person or company without building a business relationship or carrying out a transaction.

Finally, life insurance companies are formally obliged to:

- Implement suitable internal control and communication procedures in order to prevent and keep operations related to money laundering from being carried out;
- Take suitable measures (in particular, training) to make their managers, employees and agents aware of the legal stipulations.

# X. PricewaterhouseCoopers in Luxembourg

Within one single entity, PricewaterhouseCoopers gathers multidisciplinary, qualified professionals in the insurance and reinsurance sectors. Through the services we provide, we compare and share our specific expertise in order to meet the needs of our clients. Thus, they can benefit from our advisors' experience within the framework of a truly multidisciplinary approach. We provide below a non-exhaustive list of the various services provided.

## 1. Assurance and Business Advisory Services (ABAS)

Further to the certification of annual accounts as part of an audit assignment, we may carry out several other audit assignments and related tasks, such as:

- Preparing the special reports required by law, specifically when a company increases its share capital via a contribution in kind or when companies merge or demerge;
- Carrying out due diligence processes;
- Analysing, reviewing and implementing procedures.

## 2. Global Risk Management Solutions

This is mainly related to the following fields:

- Review of computer applications and accesses;
- Implementation of internal control structures (COSO models, etc.);
- Implementation of tools to ensure control follow-up;
- Market analyses and access studies;
- Internal audit assignments;
- Corporate governance.

## 3. Tax, Advisory and Regulatory

We have a vast experience in taxation and regulations for insurance and reinsurance companies. Among other things, our qualifications include the following:

- Taxation of insurance and reinsurance companies as well as related products;
- Taxation and regulations related to the distribution of insurance products;
- Tax audit as part of consolidated controls or company acquisition projects;
- Timely regulatory and tax market watch in the countries where the insurance products are marketed.

## 4. Actuarial

The consulting work of our actuarial services mainly covers the following areas:

- Providing advice to insurance and reinsurance companies:
  - Company valuation, insurance and reinsurance portfolio valuation;
  - Analysis and breakdown of insurance company profitability;
  - Asset portfolio and derivatives valuation;
  - Feasibility studies and set-up of insurance and reinsurance companies;
  - Creation and valuation of insurance and reinsurance products, treaties and software programmes;
  - Asset Liability Management analysis.
- Providing advice on pension plans and other benefits:
  - Analysis and implementation of pension plans and other benefits in line with corporate objectives;
  - Analysis of various financing vehicles (pension funds, provisions in the balance sheet, Pension savings associations ASSEPs -, Pension savings companies with variable capital -SEPCAVs -, group insurance, etc.);
  - ALM analysis.

## 5. Human Resources

We have specific skills in human resources by means of Human Resources Advisory. The services provided by this department are especially related to the following fields:

- Advice on human resources management and organisations development:
  - Human resources audit;
  - Complete reengineering of human resources departments;
  - Installation of human resources management software;
  - Job and performance management.
- Advice on remuneration and salary packages:
  - Providing salary benchmarks;
  - Bonus models.

# Annex A

## Luxembourg legal framework

### 1. Laws and Regulations

- I - Law dated April 7, 1976 regarding compulsory third party liability insurance for motorised vehicles.
- II - Law dated December 6, 1991 regarding the insurance sector that has been amended by the Laws dated December 18, 1993, December 8, 1994 and August 8, 2000.
- III - The Law dated December 8, 1994 related to annual accounts and consolidated accounts of insurance and reinsurance companies under Luxembourg law and regarding the obligations for establishment and drawing up accounting documents of the branches of insurance companies governed by foreign law.
- IV - Law dated July 27, 1997 regarding insurance contracts.
- V - Ministerial regulation dated April 7, 1992 granting dispensations for the performance test for insurance managers, agents and brokers.
- VI - Ministerial regulation dated April 25, 1994 establishing the regime for insurance agents.
- VII - Ministerial regulation dated April 25, 1994 establishing the regime for insurance brokers.
- VIII - Grand-ducal regulation dated December 14, 1994, modified by the grand-ducal regulation adopted on January 10, 2003, pursuant to the amended Law dated December 6, 1991 regarding the insurance sector and specifying the types of authorisation and operation of direct insurance companies.
- IX - Grand-ducal regulation dated December 20, 1994, pursuant to Article 17 paragraph 2 and 3 of the amended Law dated April 7, 1976, related to third party liability insurance for motorised vehicles determining the conditions that must be stipulated in third party liability insurance contracts for motorised vehicles.
- X - Grand-ducal regulation dated November 30, 2000 pursuant to the amended Law of December 6, 1991 related to the insurance sector determining the conditions of additional supervision of insurance companies, which are part of an insurance group.
- XI - Grand-ducal regulation dated May 16, 2002 on contributions to personnel and operating expenses of the Insurance Commission.

### 2. Main circulars issued by the Insurance Commission regarding life insurance (as at June 30, 2003)

#### **Prudential reporting**

- LC 95/3 prudential rules for life insurance
- LC 95/5 the rules for taking into account holdings in other companies of the financial sector in order to determine the solvency margin
- LC 95/7 accounting the carry-forward acquisition costs
- LC 02/1 separate report to be provided by the auditor of direct insurance companies
- LC 02/9 application of article 111 bis LITL
- LC 03/1 yearly actuarial report of Luxembourg life-insurance companies
- LC 03/2 annual reporting obligations of Luxembourg direct insurance companies

**Representative assets**

- LC 00/4 using shares of certain investment funds in unit-linked insurance policies
- LC 00/6 rules regarding the permanent inventory of certain assets representing technical provisions provided in article 37 of the amended Law of December 6, 1991 on the insurance sector (modified by LC 03/4)
- LC 01/7 deposit of the assets representing the technical provisions of direct insurance companies and pension funds under the supervision of the Insurance Commission
- LC 01/8 investment rules for fund-related life insurance products

**Technical interest rates**

- LC 98/1 technical interest rates
- LC 99/9 amendment and addition to the circular 98/1
- LC 00/5 amendment and addition to the amended circular 98/1
- LC 01/10 amendment and addition to the amended circular 98/1

**Anti-money laundering**

- LC 3/94 money laundering
- LC 01/5 sanctions against Afghan Talibans; identification and disclosure of business relationships with terrorist circles
- LC 01/9 extension of professional anti-money laundering obligations and prevention of the use of the insurance sector for money laundering purposes

**Shareholders, board of directors, managers and intermediaries**

- LC 96/1 control of directors of direct insurance companies
- LC 97/5 authorised manager in direct insurance companies
- LC 99/1 composition and the operational system of boards of directors of direct insurance companies
- LC 02/06 changes in shareholding of direct insurance companies

**Agents and brokers**

- LC 3/82 performing the job of an insurance agent by a public agent
- LC 3/84 transfer of the authorisation of an insurance agent
- LC 2/88 offer of life insurance contracts to life insurance policyholders
- LC 6/93 qualifications for insurance agents
- LC 98/2 issues for insurance agent candidates
- LC 02/4 report to be provided by brokerage companies and insurance brokers

**Policy sale, buyback and reduction**

- LC 1/85 offer of life insurance contracts to life insurance policyholders
- LC 3/76 transactions by insurance companies concerning minors
- LC 4/76 transactions by insurance companies concerning minors
- LC 4/78 transactions by insurance companies and those concerning minors
- LC 2/80 life Insurance policy buybacks and reductions
- LC 8/80 life Insurance policy buybacks and reductions

**Miscellaneous**

- LC 1/76 policy loans
- LC 11/77 classification of insurance risks
- LC 3/85 Law of January 28, 1948 to ensure fair and accurate collection of registration and inheritance rights
- LC 2/94 mortgages
- LC 98/3 mergers or demergers of insurance and reinsurance companies
- LC 98/4 group pension fund management
- LC 00/1 OECD recommendation on the due diligence of reinsurance companies

# Annex B

## Supervisory Authorities and Professional Associations

### **The Insurance Supervisory Authority: (“le Commissariat aux Assurances (CAA)”)**

7, boulevard Royal  
L-2449 Luxembourg

Tel.: (352) 22 69 11-1

Fax: (352) 22 69 10

Post address: P.O. Box 669  
L-2016 Luxembourg

[www.commassu.lu](http://www.commassu.lu)

### **ACA (The Association of Insurance Companies of the Grand-Duchy of Luxembourg)**

75, rue de Mamer  
L-8081 Bertrange

Tel.: (352) 44 21 44-1

Fax: (352) 44 02 89

[www.aca.lu](http://www.aca.lu)

### **ALAC (Association Luxembourgeoise des Actuaires asbl) (The Luxembourg Association of Actuaries)**

56, route de Luxembourg  
L-8077 Bertrange

Tel.: (352) 47 86 370

Fax: (352) 49 49 07

Internet site under construction: [www.alac.lu](http://www.alac.lu)

### **Ordre Luxembourgeois des Courtiers en Assurance (The Luxembourg Association of Insurance Brokers)**

24-26, rue Jean Jaurès  
L-3490 Dudelange

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### **IRE (Institut des Réviseurs d’Entreprises) (Institute of Qualified Auditors)**

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