

Life insurance in Luxembourg



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The Luxembourg insurance sector is currently governed notably by the law of 7 December 2015 on the insurance sector, as amended and by the regulation 15/03 of the Luxembourg supervisory authority, the Commissariat aux Assurances (the “CAA”), of 7 December 2015 relating to insurance and reinsurance undertakings.

Having benefited from government support since the 1980s, the life insurance sector has seen a steady increase with an acceleration since the 2000s thanks to European regulation.

Life insurance is different, from a Luxembourg law perspective, from the insurance activity consisting in the protection against a loss or a damage (in exchange of a premium).

The Luxembourg life insurance contract may be defined as a contract by which an insurance company undertakes, in return of the payment of premium(s), to pay to a person (the beneficiary) designated by the insured to death, a capital or rent which amount or the method of evaluation are laid down in the terms and conditions of the agreement.

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Authorization process

Luxembourg law ensures that subscribers benefit of a high level of protection.

One of the major aspect of such protection is the legal and regulatory framework provided by Luxembourg law.

Before starting its activities a Luxembourg life insurance company (a “**LIC**”) shall receive an authorization from the Minister of Finance.

The granting of the license is subject to the completion of an application process to be carried out with the CAA (which is a public institution subject to ministerial authority).

Within such framework the initiator shall submit some information and fulfil some requirements, including *inter alia* the holding of the eligible own funds required to cover the solvency capital requirement, the submission of a business plan, providing relevant evidences that it will have an adequate system of governance, ensure the suitability of the shareholders ... During the performance of its activities the LIC will be under the supervision of the CAA and thus subject to some reporting obligations which will ensure a high level of reliability toward the investments subscribed by the policyholders.

A tool tailored for the European market

A granted authorization is valid throughout the EEA, it allows the LIC to carry out its activities in this area, the authorization also covering the right of establishment and freedom to provide services.

In this respect the law applicable to insurance contracts distributed outside Luxembourg by LIC is the law which prevails in the Member State in which the subscriber has is usual residence.

For policyholders this means that they will benefit from the comfort of a familiar framework in terms of language, marketing and contract law and their investment will be made in compliance with their domestic tax and legal requirements.

Luxembourg specificities: Triangle of security and super privileges

Luxembourg offers the most efficient protection and security for policyholders of a life insurance policy subscribed with a LIC.

The cornerstone of this protection regime is the legal requirements that all clients’ assets shall be held by an independent custodian bank.

In practice a tripartite deposit agreement shall be executed by the LIC, the custodian bank and the CAA, such mechanism is known as the “*Triangle of security*”.

This subscriber protection regime, provides legal and physical separation between the policyholders' assets and the assets of the shareholders and other creditors of the LIC.

In practice, this regime grants the certainty of the segregation of clients' assets from the shareholders and creditors of the LIC, indeed the CAA may, under certain circumstances, block the assets of the LIC directly at the custodian bank in order to protect the policyholders' rights.

In addition, the subscribers also have a super privilege that gives them the status of first-rank creditors of the LIC on the mass of creditors (except for legal costs, employees and preferential right of the Public Treasury).

This privilege of the policyholders, which takes precedence over the other creditors, shall allow the subscribers to recover as a priority the claims relating to the execution of their insurance contracts in case of default of the LIC.

Great flexibility as regard the investment objectives

From an investor perspective life insurance is a tool allowing wealth management and succession planning.

As long as it complies with his/her domestic legislation, the subscriber can stipulate for a large range of beneficiaries and tailored terms of execution of the contract such as for instance, the designation of the beneficiary or beneficiaries (heir(s), third party(ies), children not yet born), set different amounts for different beneficiaries, determines the time of transmission...

Last but not least the policyholders may through their life insurance agreements have access to a large selection of eligible assets, including inter alia, shares, bonds (including green bonds) stakes in FCP, SICAV...

In addition depending on the investment to be made, policyholders may have access to internal dedicated funds, in other words they may have the possibility to choose discretionary and tailored investment policy specially dedicated to their needs.

The investments may be made within specific currencies (Euro, Dollar, Pound Sterling...), different geographical regions, various business sectors and obviously it is possible to determine the risk profile of the policyholder.

In other words investors can satisfy their investment objectives and diversification requirements on a tailored made basis.

Luxembourg has developed a life insurance industry very attractive and efficient over the past years.

According to the 2017 annual report published by the CAA, during the year 2017 an aggregate amount of 23 billion of premiums were subscribed with LIC, out of which more than 90% were in relation with cross boarder life insurance policies.

It may be useful to mention that LIC have seen a spectacular growth from the British market whose collection has increased of 195.38% during 2017.

Luxembourg is one of the European leader in this sector and in the setting of Brexit, some insurance companies concerned by such process are in the process of establishing and / or relocating their registered offices notably in Luxembourg in order to access or remain in the European market as the case may be.