

## Portugal

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### For insurance undertakings

General good provisions regulating insurance distribution in addition to those set out in the Insurance Distribution Directive (Article 11(2))

### Information requirements and conduct of business rules

IDD Article	Specific national legislative provision(s)	FoS	FoE
Article 17: General principle			
Article 18: General information provided by the insurance intermediary or insurance undertaking	<p><b>Articles 18 to 23 of the Insurance Contract Legal Regime approved by the Decree-Law nr. 72/2008, of April 16<sup>th</sup></b></p> <p>Insurance undertakings that intend to cover risks situated in Portuguese territory or in which Portugal is the Member State of the commitment must comply with articles 18 to 23 of the Insurance Contract Legal Regime, regarding information to be provided to the policyholders on contractual and premium rates conditions.</p>	X	X

Article 19: Conflicts of interest and transparency			
Article 20: Advice, and standards for sales where no advice is given			
Article 21: Information provided by ancillary insurance intermediaries			
Article 22: Information exemptions and flexibility clause			
Article 23: Information conditions			
Article 24: Cross-selling			
Article 25: Product oversight and governance requirements			
<b>Additional requirements in relation to insurance-based investment products</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 26: Scope of additional requirements			

Article 27: Prevention of conflicts of interest			
Article 28: Conflicts of interest			
Article 29: Information to customers			
Article 30: Assessment of suitability and appropriateness and reporting to customers			
<b>Scope, registration and organisational requirements</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 1: Scope			
Article 2: Definitions			
Article 3: Registration			
Article 10: Professional and organisational requirements			
Article 14: Complaints			

Other themes			
IDD Article	Specific national legislative provision(s)	FoS	FoE
Not applicable	<p><b>Article 78(3) and article 24(1) c) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to comply with the legal and regulatory requirements applicable to the insurance and reinsurance activity and to the distribution activity and refrain from being party in contracts executed in breach of these requirements.</p>	X	X
Not applicable	<p><b>Article 78(3) and article 24(1) d) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to assist customers on a correct and efficient manner in the intermediated contracts.</p>	X	X
Not applicable	<p><b>Article 78(3) and article 24(1) e) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to take all reasonable steps to prevent inexact or incomplete declarations by the policyholder and situations which stand in breach or constitute cases of fraud against the law.</p>	X	X
Not applicable	<p><b>Article 78(3) and article 34(1) a) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to submit in due time all the clarifications and information required and to present all the documents established in the legal regime or requested by ASF.</p>	X	X
Not applicable	<p><b>Article 78(3) and article 34(1) b) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p>	X	X

	Insurance and reinsurance distributors are required to report any amendments to the information provided to ASF under the fulfilment of the applicable duties within 30 days as of the verification of those amendments, except if a different deadline is established.		
	<p><b>Articles 153 to 159 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>)</b></p> <p>The insurance undertakings that carry on insurance business in Portugal must act in compliance with the general principles and rules of market conduct, namely regarding advertising, agreements amongst insurance undertakings and costumer ombudsman and must also publish an updated code of conduct laying down guidelines on professional ethic.</p>	X	X
General good provisions referred to in Article 180 of Solvency II			
<b>Solvency II Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
	<p><b>Article 39(2) of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>) and Article 10 of the Insurance Contract Legal Regime approved by the Decree-Law nr. 72/2008, of April 16<sup>th</sup></b></p>	X	X

	Insurance contracts qualified as compulsory within the Portuguese legal framework are ruled by the Portuguese law, and the general and special conditions attached to such policies, as well as any amendments, must be registered before the ASF by the insurance undertaking that offers it, before the beginning of the respective business or one month from that date.		
	<p><b>Articles 203 and 204 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>)</b></p> <p>Insurance undertakings that intend to provide coverage to risks related to accidents at work must comply with all the legal and regulatory applicable, namely, the duty to pay the foreseen contributions to the Accidents at Work Fund (<i>Fundo de Acidentes de Trabalho</i>).</p>	X	X
	<p><b>Article 242 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>)</b></p> <p>Insurance undertakings that intend to cover risks qualified as compulsory under the Portuguese law in the Portuguese territory must communicate to ASF the name and address of a claims representative resident or established in Portugal, who is required to have all the necessary information related to indemnity processes and possess sufficient powers to represent the undertaking in relation to injured parties, including the power to make payments, and to represent it or, if necessary, to make arrangements for its representation before the Portuguese courts and authorities regarding the indemnity claims.</p> <p>The above-mentioned representative must also be invested with powers to represent the company before the ASF, regarding supervision of the existence and validity of insurance policies and the respective registration according to article 42 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance.</p>	X	X
	<p><b>Article 243 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>)</b></p> <p>Insurance undertakings that intend to carry out the compulsory insurance of motor vehicle liability should forward to the ASF a declaration, written in Portuguese, confirming that it has become member of the <i>National Green Card Bureau</i> (Gabinete Português de Carta Verde), and</p>	X	X

	<p>that it will assure the contributions for the Motor Guarantee Fund (Fundo de Garantia Automóvel), along with a compromise that it will provide the necessary elements that may allow the competent authority to acknowledge, within 10 days, the name of the insurance company of a vehicle involved in an accident.</p> <p>Under ASF regulatory standard nr. 7/2001-R, of July 10<sup>th</sup>, insurance undertakings covering risks in the Portuguese territory within compulsory motor vehicle liability insurance must provide ASF with the following information: an annual file with the registration numbers of motor vehicles normally based in Portugal and a weekly file containing the changes of registration numbers.</p>		
	<p><b>Article 8 of the Decree-Law nr 384/2001, of November 19<sup>th</sup></b></p> <p>Insurance undertakings that intend to carry out the business of life and accidents insurance and capital redemption operations with beneficiaries in case of death of the insured person or of the underwriter, must provide ASF with a set of information to be include in a central registration regarding these insurance contracts.</p>	X	X
	<p><b>Article 87(1) and 92 of the Decree-Law nr. 291/2007, of August 21<sup>st</sup></b></p> <p>Insurance undertakings that intend to cover risks in the Portuguese territory within the optional motor vehicle insurance regarding own damage and/or the motor vehicle liability compulsory insurance (classes 3 and/or 10, according to classification of Point A (1) of the Annex I to Directive 2009/138/EC of 25 November) shall implement and keep an updated register of the period for the settlement of the claims on the scope of the motor vehicle insurance.</p>	X	X
	<p><b>Article 14 of the Insurance Contract Legal Regime approved by the Decree-Law nr. 72/2008, of April 16<sup>th</sup></b></p> <p>It is forbidden to execute insurance contracts which cover the following risks: a) Criminal, administrative or disciplinary liability; b) Kidnapping, sequestration and other crimes against the personal freedom, with exception of the strict compensations; c) Possession or transportation of narcotics or drugs, which consumption is prohibited; d) Death of children under the age of 14 or of those which, for psychic anomaly or another cause, are incapable to govern themselves, with exception of the strict benefits in the nature of indemnity.</p>	X	X

Other general good provisions (not related to IDD and Solvency II), such as money-laundering and taxation provisions, which are relevant for insurance distributors doing cross-border business

<b>Underlying Article from EU legislation, if applicable</b>	<b>Specific national legislative provision(s) and or links to the relevant websites of the Ministries where further information on the rules can be found</b>	<b>FoS</b>	<b>FoE</b>
<b>Money laundering and terrorism financing</b>	<p><b>Article 78(3) and article 24(1) e) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to take all reasonable steps to prevent situations where there is indication of potential money laundering or terrorism financing.</p>	<b>X</b>	<b>X</b>
<b>Taxation</b>	<p><b>Article 15 of the legal framework on the taking-up and pursuit of the business of insurance and reinsurance (approved by Law nr. 147/2015, of September 9<sup>th</sup>)</b></p> <p>Insurance premiums of insurance contracts covering risks situated in Portuguese territory or in which Portugal is the Member State of the commitment are subject to indirect taxes and parafiscal charges established in the Portuguese law, regardless of which law will be applied to the insurance contract and without prejudice of the special legislation applicable to the business of insurance in the institutional scope of the free zones.</p> <p>Further information on the tax regime applicable may be consulted at the Tax Authority website (at <a href="https://www.portaldasfinancas.gov.pt/at/html/index.html">https://www.portaldasfinancas.gov.pt/at/html/index.html</a>)</p>	<b>X</b>	<b>X</b>
<b>Complaints book</b>	<p><b>Decree-Law nr. 156/2005, of September 15<sup>th</sup></b></p> <p>Any commercial establishment or service provider must make a complaints book available to customers.</p>		<b>X</b>



**For insurance intermediaries**

General good provisions regulating insurance distribution in addition to those set out in the Insurance Distribution Directive (Article 11(2))

**Information requirements and conduct of business rules**

<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 17: General principle			
Article 18: General information provided by the insurance intermediary or insurance undertaking			
Article 19: Conflicts of interest and transparency			
Article 20: Advice, and standards for sales where no advice is given			
Article 21: Information provided by ancillary insurance intermediaries			
Article 22: Information exemptions and flexibility clause			

Article 23: Information conditions			
Article 24: Cross-selling			
Article 25: Product oversight and governance requirements			
<b>Additional requirements in relation to insurance-based investment products</b>			
<b>IDD Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
Article 26: Scope of additional requirements			
Article 27: Prevention of conflicts of interest			
Article 28: Conflicts of interest			
Article 29: Information to customers			
Article 30: Assessment of suitability and appropriateness and reporting to customers			

Scope, registration and organisational requirements			
IDD Article	Specific national legislative provision(s)	FoS	FoE
Article 1: Scope			
Article 2: Definitions			
Article 3: Registration			
Article 10: Professional and organisational requirements			
Article 14: Complaints			
Other themes			
IDD Article	Specific national legislative provision(s)	FoS	FoE
Not applicable	<p><b>Article 34 of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Report to ASF, on an annual basis, the identification of the insurance and ancillary insurance intermediaries used for the distribution of insurance products, as well as of the persons that distributed the insurance products, under no. 2 of article 2 of the insurance and reinsurance distribution regime, and the remuneration paid for the insurance distribution – under the conditions established by ASF regulatory standard no. 13/2020-R, of December 30<sup>th</sup>.</p>	X	X

Not applicable	<p><b>Article 49(1) and 2 of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>The insurance or ancillary insurance intermediary may, in the anniversary date of the insurance contract, or in the case of renewable contracts, on the date of this renovation, cease its activity towards one or more its portfolio insurance contracts, given that this intention is communicated to the policyholder and to the insurance undertaking at least 60 days before that date.</p> <p>With the policyholder's explicit written agreement, the functions of the insurance or ancillary insurance intermediary may cease at any time.</p>	X	X
Not applicable	<p><b>Article 53(5), (7) and (8) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>If the insurance undertaking does not oppose to the transmission of the insurance contracts portfolio, the insurance or ancillary insurance intermediary shall communicate to the policyholders in written the said transmission, providing information of the elements mentioned in article 31(1) of the insurance and reinsurance distribution regime with regards to the new insurance or ancillary insurance intermediary and of their right to refuse the intervention of the latter as well as that they maintain the right to choose and appoint, under the legal regime, an insurance or ancillary insurance intermediary to their insurance contracts.</p> <p>The insurance and ancillary insurance intermediary informs the insurance undertaking of the above mentioned communication of the policyholders as well as of any situations in which the intervention of the new intermediary is refused, until 10 days after the end of the policyholder's maximum deadline to inform about his refusal (30 days).</p> <p>If the contract that rules the transmission of the portfolio is silent on the date of application the same is applicable with regards to each insurance contract of the portfolio in the respective anniversary date or, in case of renewable contracts, on the renovation date and, in any case, the application date shall be included in the communication to the policyholder referred to in the first paragraph.</p>	X	X
Not applicable	<p><b>Article 55 (1) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>In case of termination of the mediation contracts between insurance or ancillary insurance intermediaries and the insurance undertakings, the insurance contracts are deemed as "direct" (without an intermediary) and the insurance undertaking shall communicate within five days after the termination this termination to the policyholders and inform them that they maintain their right to choose and appoint, under the legal regime, an insurance or ancillary insurance intermediary to their insurance contracts.</p>	X	X

Not applicable	<b>Article 78(3) and article 24(1) a) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance, reinsurance and ancillary insurance intermediaries are not entitled to execute contracts in the name of the insurance undertaking, except if empowered by the same to do so.	X	X
Not applicable	<b>Article 78(3) and article 24(1) b) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance, reinsurance and ancillary insurance intermediaries are not allowed to provide cover for risks in their own name.	X	X
Not applicable	<b>Article 78(3) and article 24(1) c) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance and reinsurance distributors are required to comply with the legal and regulatory requirements applying to the insurance and reinsurance activity and to the distribution activity and refrain from being party in contracts executed in breach of these requirements.	X	X
Not applicable	<b>Article 78(3) and article 24(1) d) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance and reinsurance distributors are required to provide assistance – correctly and efficiently – in the intermediated contracts.	X	X
Not applicable	<b>Article 78(3) and article 24(1) e) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance and reinsurance distributors are required to take all reasonable steps to prevent inexact or incomplete declarations by the policyholder and situations which stand in breach or constitute cases of fraud against the law.	X	X
Not applicable	<b>Article 78(3) and article 24(1) f) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b>	X	X

	Insurance, reinsurance and ancillary insurance intermediaries are required to maintain professional secrecy regarding information related with the distribution activity.		
Not applicable	<b>Article 78(3) and article 24(1) g) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance, reinsurance and ancillary insurance intermediaries are required to evidence the respective registration as an intermediary if requested by a customer or potential customer.	X	X
Not applicable	<b>Article 78(3) and article 34(1) a) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance and reinsurance distributors are required to submit in due time all the clarifications and information required and to present all the documents established in the legal regime or requested by ASF.	X	X
Not applicable	<b>Article 78(3) and article 34(1) b) of the insurance and reinsurance distribution regime (approved as annex to Law nr. 7/2019, of January 16<sup>th</sup>)</b> Insurance and reinsurance distributors are required to report any amendments to the information provided to ASF under the fulfilment of the applicable duties within 30 days as of the verification of those amendments, except if a different deadline is established.	X	X
General good provisions referred to in Article 180 of Solvency II			
<b>Solvency II Article</b>	<b>Specific national legislative provision(s)</b>	<b>FoS</b>	<b>FoE</b>
	N/A		
Other general good provisions (not related to IDD and Solvency II), such as money-laundering and taxation provisions, which are relevant for insurance distributors doing cross-border business			

Underlying Article from EU legislation, if applicable	Specific national legislative provision(s) and or links to the relevant websites of the Ministries where further information on the rules can be found	FoS	FoE
Money-laundering and terrorism financing	<p><b>Article 78(3) and article 24(1) e) of the insurance and reinsurance distribution regime (approved as an annex to the Law nr. 7/2019, of January 16<sup>th</sup>)</b></p> <p>Insurance and reinsurance distributors are required to take all reasonable steps to prevent situations where there is indication of potential money laundering or terrorism financing.</p>	X	X
Complaints book	<p><b>Decree-Law nr. 156/2005, of September 15<sup>th</sup></b></p> <p>Any commercial establishment or service provider must make a complaints book available to customers.</p>	X	X