

REGULATORY INTELLIGENCE

COUNTRY UPDATE - Cyprus: Insurance

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Antonios Glykiss and Georgia Eleftheriou, Elias Neocleous & Co LLC



Regulator The Superintendent of Insurance is the competent authority regulating the insurance sector in Cyprus.

Overview

The Cyprus insurance market used to be a closed market served by a limited number of domestic companies, but it has expanded significantly since Cyprus joined the European Union in 2004. Today the Cyprus insurance sector is highly competitive and the implementation of EU directives has made the regulation of the sector more sophisticated than ever. While this has increased costs in the short term in some areas, policy holders enjoy far greater peace of mind.

Cyprus has become an ideal base for insurance interests based outside the EU aiming to tap into the opportunities offered by the largest trading bloc in the world. The new insurance legislation, enacted in 2016, established a credible and effective framework, which is fully in line with EU standards. The high level of professional services available locally inspires confidence, and the low taxation environment supports these qualitative views with clear objective benefits.

Legal framework

When Cyprus became an independent state in 1960, it maintained the English-based legal system which operated during the period of British rule. Section 29(1) of the Courts of Justice Law provides that English common law and the principles of equity apply in Cyprus, provided that they do not conflict with the constitution or with any laws passed since independence by the Cyprus parliament.

Given the relatively small size of the jurisdiction and the correspondingly limited body of domestic case law, much reliance is placed on English decisions. As noted above, Cyprus joined the EU in 2004, and its legislation has been fully aligned with the EU *acquis communautaire*.

The principal law governing the insurance sector in Cyprus is the Law on Insurance and Reinsurance Services and Other Related Matters of 2016, Law 38(I)/2016, (the 2016 Law), which came into force on April 11, 2016 and implements Directive 2009/138/EC of the European Parliament and Council of November 25, 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

The 2016 Law was amended by the Insurance, Reinsurance and Other Related Matters (Amendment) Law of 2017, Law 88(I)/2017, which came into force on July 12, 2017 and added to and amended various articles of the 2016 Law. The 2016 Law repealed the Insurance Services and Other Related Issues Law of 2002 to 2013 and completely revised the system of insurance and reinsurance administration in Cyprus. It may be supplemented from time to time by Regulations issued by the Cyprus Council of Ministers.

Like all laws in Cyprus, the 2016 Law is written in Greek, and the original Greek version prevails over any translation. Although the 2016 Law repealed the previous primary legislation, all the Directives, Decisions, and other Administrative Acts issued under the provisions of the earlier legislation remain in force and are binding to the extent that they are not inconsistent with the 2016 Law, until they are repealed or replaced.

The 2016 Law as amended to date will be referred to together as "the Law".



As noted above, national law in the insurance and reinsurance sector is fully aligned with the relevant EU directives, initially Directive 2008/37/EC of the European Parliament and Council on reinsurance and amending Council Directives 2005/68/EC, 73/239/EEC, 92/49/EEC and Directives 98/78/EC and 2002/83/EC, and now Directive 2009/138/EC.

Specific objectives of these directives, which have been implemented into Cypriot national law, are to establish a sound and prudent supervisory regime in the interests of policy holders; to allow reinsurers headquartered in the European Union to carry on business throughout the EU under the freedom of establishment and the freedom to provide cross border services; to abolish collateral requirements within the EU or EU reinsurers; and to enable the negotiation and establishments of reciprocal treaties with other regulatory regimes.

The current directive provides a harmonized regulatory framework for reinsurance in the European Union. By establishing a reliable system of supervision of the cross-border reinsurance market, the directive aims to strengthen insurance markets, bringing about such harmonization as is necessary, and sufficient to achieve the mutual recognition of authorizations and prudential control systems, thereby making it possible to grant single authorization valid throughout the EU and to apply the principle of supervision by the home member state.

Regulatory authority

The Superintendent of Insurance is the competent authority regulating the insurance sector in Cyprus and derives its powers from the Law and the relevant Regulations, with the objective of protecting policyholders and insurance beneficiaries.

The Superintendent's regulatory ambit includes the taking-up, pursuit and supervision of insurance and reinsurance services and the taking-up, pursuit and supervision of insurance mediation services and other related issues.

The Superintendent of Insurance is the head of the Insurance Companies Control Service (the Service) which at all times acts on behalf of and by order of the Superintendent of Insurance. The Service examines applications submitted by undertakings for the issue of their licence as insurers or reinsurers, examines and analyses insurance or reinsurance undertakings' financial statements and their system of governance in order to establish their solvency and their ability to meet their obligations and generally establishes that they operate on sound insurance principles.

The Service also examines applications and issues licences for the registration of insurance intermediaries in the relevant registers of insurance agents, insurance brokers, sub-agents, insurance advisers and tied-insurance advisers.

The market structure - in general

As at December 31, 2019, the number of insurance/reinsurance undertakings transacting business in Cyprus was as follows:

- 32 domestic insurance undertakings which transact all or the greatest part of their business in Cyprus.

- 8 EU/European Economic Area insurance undertakings with permission from their home supervisory authorities to provide insurance services in the Republic of Cyprus under the Freedom of Establishment regime (FOE).

- 535 EU & EEA insurance undertakings with permission from their home supervisory authorities to provide insurance services in Cyprus, under the Freedom of Services regime.

In 2019, total gross premiums written for both domestic and foreign business amounted to 929 million euros. In the life insurance segment, total gross premiums including policy fees) written to 382 million euros, and in the non-life insurance segment gross premiums (excluding policy fees) written to 547 million euros.

Licensing requirements of insurance or reinsurance business for a Cyprus insurance company

To obtain a licence to carry on insurance business or reinsurance undertaking in Cyprus, the following conditions must be met:

Insurance undertakings must limit their objects to the business of insurance and operations arising directly therefrom, to the exclusion of any other commercial business;

Reinsurance undertakings must limit their objects to the business of reinsurance and related operations, including a holding company function and activities with the function and activities of a holding company in the financial sector, within the meaning of the directives on financial conglomerates which are issued by the Superintendent of Insurances;

A scheme of operations has been submitted in accordance with section 24 of the Law;

The undertaking has available basic own funds eligible to cover the absolute floor of the Minimum Capital Requirements, provided for in paragraph (d) of subsection (1) of article 136 of the Law;

- The undertaking must demonstrate that it is in a position to make available own funds sufficient to cover the solvency capital requirements;

- The undertaking must also demonstrate that it is in a position to make available basic own funds sufficient to cover the minimum capital requirements;

- The undertaking must demonstrate that it complies with the prescribed governance requirements;

- The undertaking satisfies the conditions in article 25 regarding fitness and propriety shareholders to ensure sound and prudent management of the undertaking;

- The undertaking maintains both its head office and registered office in Cyprus;



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With regard to non-life insurance, the undertaking must communicate the name and address of all the representatives for the settlement of claims, who are appointed in accordance with the provisions of the Motor Vehicles (Third Party Insurance) Law of 2000, as amended or replaced at any given time, out of Cyprus, if the risks covered are classified in the class of civil liability for land vehicles (class 10 in Part A of the First Appendix in the Law), excluding carrier's liability; and

With regard to undertakings which apply for authorization for assistance (class 18 in Part A of the First Appendix in the Law), the undertaking satisfies the Superintendent that it has the necessary resources, including staff and equipment to carry out the services it offers.

The application is submitted to the Superintendent in the prescribed form together with the prescribed fee and the requisite supporting documentation, including the company's memorandum of association and articles of association of the undertaking, which should be approved by the Superintendent. The Superintendent may request any further information that he considers necessary in order to examine the application.

A Cyprus insurance company may apply to the Superintendent for permission to establish a branch or an agency in another member state of the European Union or European Economic Area, under its freedom of establishment. The company must disclose the states in which it intends to undertake business and submit a business plan. A general representative must have been appointed in the other states. The Superintendent will consider the business plan, the administrative structure, financial situation, and qualifications of the managers and general representatives when deciding whether to grant permission.

As far as the Superintendent in Cyprus is concerned, the agency or branch may start business in the other states following the notification of conditions, if any, by the supervisory authority of the other states to the Superintendent, or in any event within two months after the Superintendent has given permission.

Insurance companies are prohibited from undertaking any business in Cyprus apart from insurance. In relation to domestic insurance companies, the prohibition also applies for their business outside Cyprus. Reinsurance undertakings must similarly limit their objects to the business of reinsurance undertaking but may carry on ancillary activities, such as provision of statistical or actuarial advice, risk analysis, or research for its clients. They may also undertake holding company and financial sector activities.

Cyprus insurance companies also may conduct insurance business in other member states of the European Union or European Economic Area under their freedom to provide services, once various documents have been submitted to the Superintendent and been forwarded by him to the supervisory authorities of the states concerned. The Superintendent may refuse to forward these if they are not in order.

Cyprus insurance or reinsurance undertakings may transfer all or part of their portfolios of contracts, including those concluded either under the right of establishment or the freedom to provide services, to an accepting office within or outside Cyprus, if the competent authorities of the home member state of the accepting office certify that, after taking the transfer into account, the accepting office possesses the necessary solvency margin.

Security

Domestic and overseas insurance companies operating in Cyprus must maintain adequate levels of approved investments to cover their technical reserves, with the exception of life business unit-linked policies, in line with the approved percentages and free of any burden, and these must be expressed or liquidated in the appropriate currency according to the currency matching rules set out in the law.

For technical reserves concerning unit-linked life policies, up to five percent of the shares of the insurer's parent company may be acquired as long as this is within the limits set from time to time by ministerial order for these investments.

A Cyprus insurance company offering life policies, the benefits of which are directly linked to the value of units in undertakings for collective investments in transferable securities vehicles or to the value of the assets included in one of its internal funds, which is usually divided into units, must ensure that its technical reserves covering these benefits are represented as closely as possible by those units or, if there are no units, by the relevant assets.

Licensing requirements for non-EU or non-EEA insurance companies

Section 4(1)(c) of the 2016 Law states that: ". . . the provisions of this law govern. . . the pursuit of insurance or reinsurance business by insurance or reinsurance third country undertakings which are registered in Cyprus, by virtue of the Companies Law, as an overseas companies and operate as branches of third country insurance or reinsurance undertakings and pursue insurance or reinsurance business within and/or outside Cyprus."

A third country insurance undertaking is defined as: ". . . a direct life or non-life undertaking, which has received authorization to operate and is supervised by a third country competent authority and which, if its head office were situated in the Union, would require authorization to pursue insurance business from the supervising authority of the home member state".

A third country insurance company seeking to undertake insurance business in Cyprus may do so either as a branch or an agency registered under the Companies Law, following the grant of a licence by the Superintendent. To obtain a licence, the applicant must satisfy the following conditions:

It must submit an application in the prescribed form, together with supporting documents and the prescribed fee;



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It is entitled to pursue insurance or reinsurance business, as the case may be, under the legislation of its home jurisdiction;
It establishes a branch in Cyprus;
It undertakes to establish an accounts department in Cyprus to deal with the business it pursues there and to hold all records relating to that business;
It appoints a representative meeting the requirements set by the superintendent;
It possesses in Cyprus assets of at least one half of the absolute floor prescribed in paragraph (d) of subsection (1) of article 136 of the Law in respect of the Minimum Capital Requirement and deposits one fourth of that absolute floor as security;
It undertakes to cover the Solvency Capital Requirement and the Minimum Capital Requirement in accordance with the requirements referred to in sections 106 and 135 of the law;
It communicates the name and address of the representative appointed to deal with claims in each member state in which authorization is sought where the risks to be covered are classified under motor vehicle liability (class 10 of Part A of the First Appendix of the Law), other than carrier's liability;
It submits a scheme of operations in accordance with the provisions of article 178 of the Law; and
It fulfils the governance requirements laid down in section 2 of the Fourth Chapter of Part II of the Law.

Where third-country insurance or reinsurance undertakings intend to undertake business in Cyprus and in one or more EU member states applications must be submitted to the regulatory authorities of all them and the superintendent will consult with his counterparts in other member states to arrive at a joint decision.

In such cases the solvency capital requirement referred to in article 180 of the Law must be calculated in relation to the entire business which the company undertakes in the EU, the deposit required under paragraph (f) of subsection (2) of article 177 may be lodged in only one of those member states where the undertaking pursues its activities; and (c) the assets representing the minimum capital requirement must be localized, in accordance with article 141, in any one of the member states in which it pursues its activities.

Licensing requirements for EU and EEA insurance companies

Establishing a branch or agency

An insurance undertaking of a member state may establish a branch within Cyprus to pursue insurance operations under the right of establishment if it satisfies the requirements set out in the law. Any permanent establishment of an undertaking in Cyprus must be treated in the same way as a branch, even where that presence does not take the form of a branch but consists merely of an office managed by the own staff of the undertaking or by a person who is independent but has permanent authority to act for the undertaking as an agency would.

An insurance undertaking of a member state that proposes to establish a branch within Cyprus must notify its intention to the supervisory authority of the home member state, which notifies the superintendent and certifies that the undertaking meets the prescribed solvency capital and minimum capital requirements. It must also provide:

A scheme of operations setting out as a minimum the types of business envisaged and the structural organization of the branch;

The name of its authorised agent in Cyprus, who must have the power to bind the undertaking (or in the case of Lloyd's, the underwriters concerned) in relation to third parties, and to represent it or them before the authorities and courts of Cyprus;

An address in Cyprus from which documents may be obtained and to which they may be delivered, including all communications to the authorized agent.

And, with regard to Lloyd's, in the event of any litigation in Cyprus arising out of underwritten commitments, the insured persons may not be treated less favourably than if the litigation had been brought against businesses of a conventional type.

Where a non-life insurance undertaking intends its branch to undertake motor vehicle liability insurance (Class 10, Part A, First Appendix of the Law) not including carrier's liability, it must produce a declaration that it has become a member of the national bureau and the national guarantee fund in accordance with the provisions of the Motor Vehicles (Third-Party Liability) Laws of 2000 as amended or any replacement law.

Within two months from receiving all the necessary documents and particulars determined from the overseas supervisory authority, the Superintendent may determine and inform its overseas counterpart of any special conditions it deems appropriate for reasons of public interest.

A non-Cypriot insurance company which has its head office within the EU or the EEA and which constitutes one of the legal entities prescribed in article 8(1) of the First Directive 73/239/EEC, as amended, or article eight of Directive 79/267/EEC, as amended, and which wishes to undertake insurance business in Cyprus by virtue of its freedom of establishment, may establish a branch or an agency in Cyprus, as long as a general representative in Cyprus has been appointed and the Superintendent has received:

Notification of the company's intentions from the competent supervisory authority of the member state of origin.

A statement from the insurance company, stating that it will join a body or organisation recognised or prescribed by law where it intends to offer compulsory insurance.

The same provisions also apply to companies based in Switzerland in the case of non-life business. The obligations of Cypriot insurance companies with regard to the advertising of insurance in Cyprus also apply to undertakings based in another EU or EEA member state.



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Providing insurance services in Cyprus

An insurance company based in another EU or EEA member state may offer insurance in Cyprus under its freedom to provide services, without establishing a branch or an agency in Cyprus, as long as:

The Superintendent has received from its counterpart in the member state of origin a notification of the company's intentions and a statement that the insurance company concerned will join a body or organisation recognised or prescribed by law where it intends to offer compulsory insurance.

A tax representative in Cyprus has been appointed.

A special representative has been appointed where the company intends to underwrite certain types of motor insurance.

Subject to these requirements, the company may commence business in Cyprus under the freedom to provide services once it has received the relevant notification from the competent supervisory authority of its home member state. The obligations of Cypriot insurance companies with regard to the advertising of insurance in Cyprus also apply to undertakings based in another EU or EEA member state.

Establishing an insurance intermediary

Insurance mediation business is defined as the: ". . . activities which consist of introducing, proposing preparatory work to the conclusion of contracts of insurance or reinsurance, or of concluding such insurance or reinsurance contracts, or of assisting in the administration and performance of such insurance or reinsurance contracts, in particular in the event the insurance risk occurs";

The Superintendent keeps registers of the various categories of intermediaries (insurance agents, insurance brokers, sub-agents, insurance advisors and tied-insurance advisors), decides on the registration or deletion of any person in them and supervises the pursuit of mediation activities and the businesses pursuing them, cooperating with other EU or third-country regulators as appropriate.

Insurance mediation business can be pursued by reinsurance agents, insurance or reinsurance brokers, insurance or reinsurance sub-agents, insurance or reinsurance advisers as well as ancillary insurance advisers who are registered as such by the Insurance Companies Control Service of the Ministry of Finance. In order for an insurance mediation company to be registered, written mediation agreements must have been concluded in writing between the persons who are to pursue mediation activities and the persons on whose behalf they will be acting, setting out the terms on which they will operate.

All insurance mediation companies and individuals must, at the time of their registration and for as long as they are active in the provision of mediation services, either:

hold professional liability insurance that covers the entire EU and the EEA for an amount of at least 1,250,618 euros per claim and 1,857,927 euros per annum for all claims unless the insurance or other similar guarantee has already been provided by an insurance or other undertaking on behalf of which it is acting or for which the subagent is authorized to act, or if the undertaking has fully undertaken the liability for the actions of the subagent; or

hold another similar civil liability guarantee as to conduct that arises from professional negligence, comparable to the above.

Taxation

Corporation tax – in general

Companies, other than public corporate bodies, are liable to corporation tax in Cyprus at the rate of 12.5% of taxable income. Public corporate bodies are subject to corporation tax at the rate of 25 percent of taxable income.

Corporation tax for non-life insurers

For insurance undertakings engaged in general business insurance, taxable income is calculated by adding together all the gross premiums, interest, commissions, and other income and deducting any premiums returned to the insured and premiums paid for reinsurance. Any increase in the reserve for unexpired risks during the year of is deducted (and any reduction in the reserve added). Finally, expenses and any other allowable deductions are deducted.

Unrelieved losses may be carried forward and set off against the income subsequent years.

Corporation tax for life insurers

For insurance undertakings engaged in life insurance business, taxable income is calculated by adding together all gross premiums and net investment income and deducting any premiums paid on reinsurances, net claims, surrenders, and expenses. Any increase in the reserve for liabilities in respect of the long-term business in Cyprus during the year of is deducted (and any reduction in the reserve added).

Where no tax is due, or the tax payable on the profits or benefits from long-term insurance business does not exceed 1.5% of the gross premiums, excluding contributions to any approved pension or provident fund or any other fund which the insurance undertaking manages for the benefit of its members, the undertaking must pay the difference by way of income tax prepayment. Income of the undertaking from other sources includes income from the management of any pension, provident, or other fund.

Unrelieved losses may be carried forward and set off against income for subsequent years.

Taxation of insurance intermediaries' earnings



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Tax Department circular EE26, dated September 7, 2018, clarifies the tax treatment of insurance intermediaries' earnings. A representative of an insurer who is not in an employment relationship with that insurer will be treated as a commercial enterprise whose revenue is derived from fees or commission for the conclusion of insurance contracts. If their annual revenue exceeds 70,000 euros, the intermediary must maintain accounting records and prepare audited financial statements as required by Article 30 of the Assessment and Collection of Taxes Law 1978.

If the intermediary does not maintain accounting records, a general deduction of 25 percent of their net commission (i.e., commission received minus commission paid) on new contracts and renewals is allowed in respect of expenses, in line with past practice. However, if the intermediary maintains accounting records, even though they may not be required under Article 30 of the Assessment and Collection of Taxes Law, expenses actually incurred relating exclusively to the undertaking are deductible, even if they exceed 25% of their revenue.

The internet

Public access to the internet is high in Cyprus and the government actively promotes the use of services that can be conducted through the internet. Similarly, use of the internet is growing in the Cyprus financial sector, in which companies are in a phase of product development. Cyprus insurance companies are also active in marketing on the internet. They are marketing their own brands and several insurance products, and it is possible to take out life and non-life insurance policies online.

This Country Update was kindly provided by [Antonis Glykis](#) and [Georgia Eleftheriou](#): telephone (+357 25 110110) of [Elias Neocleous & Co LLC](#).

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