

Commissariat aux Assurances Regulation No 19/01 of 26 February 2019 on insurance and reinsurance distribution

The Directorate of the Commissariat aux Assurances,

Having regard to Article 108*bis* of the Constitution;

Having regard to the law of 7 December 2015 on the insurance sector, as amended, in particular to Article 2, paragraph 1, point c) thereof;

Decides:

Chapter 1 - Definitions and abbreviations

Art.1. - Definitions and abbreviations.

For the purpose of this Regulation, in addition to the definitions contained in Articles 32, 43 and 279 of the *law of 7 December 2015 on the insurance sector, as amended*, (hereinafter the "Law"), the following definitions and abbreviations shall apply:

1. "candidate", the prospective insurance agent or sub-broker, insurance or reinsurance broker, executive of an insurance or reinsurance brokerage firm;
2. "examination", the aptitude test concerning professional knowledge provided for in Article 288, paragraph 1, subparagraph 2, of the Law;
3. "group of classes", all the classes of insurance referred to either in Annex I of the Law or all the classes of insurance referred to in Annex II of the Law;
4. "multi-class intermediary", any insurance intermediary approved to distribute insurance contracts falling within the two groups of classes;
5. "single-class intermediary", any insurance intermediary approved to distribute insurance contracts falling within one group of classes only;
6. "fees regulation", the grand-ducal regulation concerning contributions to the staff costs and operating costs of the Commissariat aux Assurances referred to in Article 31, paragraph 2, of the Law;
7. "brokerage firm", an insurance brokerage firm or a reinsurance brokerage firm.

Chapter 2- The activity of insurance or reinsurance distribution.

Section 1 - General information.

Art. 2 - Online registration system.

The CAA is setting up an online registration system for intermediaries that is easy to access and allows the completion of a registration form directly online.

Section 2 - Insurance or reinsurance brokerage.

Art. 3 - Content of the application for approval of a brokerage firm.

The application for approval shall be submitted to the Minister through the CAA. It is accompanied by the following documents and information about the brokerage firm:

- 1) the "DA SOCCOUR" form, which may be downloaded from the CAA website, duly completed and validly signed and containing in particular the following information and sections:
 - a) information on the registered office;
 - b) information on the executive or executives responsible for the day-to-day management of the brokerage firm;
 - c) an indication of the group of classes for which approval is sought;
 - d) information on the composition of the corporate bodies;
 - e) information on all direct or indirect shareholders holding a qualifying holding in, or exercising control over, the brokerage firm and
 - f) the name of the approved auditor of companies ("*réviseur d'entreprises agréé*"), the auditor ("*réviseur d'entreprises*") or the chartered accountant appointed in accordance with Article 299 of the Law and being a member of the *Institut des Réviseurs d'Entreprises* or the *Ordre des Experts Comptables*;
- 2) the articles of incorporation of the legal person or, in the event of a subsequent amendment thereof, the latest consolidated version of the articles;
- 3) an updated extract from the trade and companies register, less than 3 months old;
- 4) the business plan referred to in Article 283, paragraph 1, point f) of the Law;
- 5) for a brokerage firm incorporated for more than 6 months, an extract from the legal person's Luxembourg criminal record, which is less than 3 months old;
- 6) proof of coverage of the legal person's professional civil liability in accordance with Article 6, paragraph 3;
- 7) a graphical organisation chart showing at least any direct or indirect shareholders holding a qualifying interest in, or exercising control over, the applicant legal person with the respective participation rates;
- 8) the form named "Declaration on the beneficial owner of a qualifying holding in a brokerage firm" for each shareholder holding a qualifying holding or exercising control;
- 9) if any, the annual accounts, as well as the consolidated annual accounts, of the last three financial years of the applicant legal person and of each of the shareholders of which the applicant legal person is a direct or indirect subsidiary;
- 10) confirmation from the applicant legal person demonstrating that the holdings or close links held by its shareholders over it do not prevent the effective exercise of the CAA's supervisory functions;
- 11) evidence that the approved auditor, the auditor or the chartered accountant appointed in accordance with Article 299 of the Law is a member in the Grand Duchy of Luxembourg of the *Institut des Réviseurs d'Entreprises* or the *Ordre des Experts Comptables*;
- 12) a title of occupation for the offices of the legal person;

- 13) proof of payment of the application fee due under the fees regulation;
- 14) information on the reasons for choosing to establish the brokerage firm in the Grand Duchy of Luxembourg, where the proposed activity of the brokerage firm is directed exclusively or mainly towards a single Member State other than the Grand Duchy of Luxembourg.

The CAA may also request any other information necessary for the assessment of the application.

Art. 4 - Content of the application for approval of an executive of a brokerage firm or an individual insurance broker.

- (1) The application for approval shall be submitted to the Minister through the CAA. It is accompanied by the following documents and information on the applicant for approval as an executive of a brokerage firm or as an individual broker:
 - 1) the "FP 3" form, which may be downloaded from the CAA website, duly completed and validly signed and containing in particular the following information and sections:
 - a) information on the identification of the candidate;
 - b) an indication of the group of classes for which approval is sought;
 - c) indications of potential conflicts of interest;
 - d) information on the candidate's activities;
 - e) information on the candidate's good repute; and
 - f) information on the candidate's competence;
 - 2) a *curriculum vitae*;
 - 3) a certificate of residence;
 - 4) an extract from the Luxembourg criminal record, less than 3 months old;
 - 5) an extract from the criminal record, less than 3 months old, of the country of private residence if such country is not the Grand Duchy of Luxembourg or, if no criminal record exists in that country, a declaration before a notary on any convictions;
 - 6) a declaration on oath - or, in States where such an oath is not provided for, a solemn declaration - made by the candidate before a competent judicial or administrative authority or, where appropriate, a notary in the candidate's State of origin or provenance and providing information on whether the candidate has not previously been declared bankrupt;
 - 7) a copy of a valid identification document (ID or passport);
 - 8) proof of business management skills;
 - 9) a copy of proof of payment of the application fee due under the fees regulation;
 - 10) the justifications on which an application for exemption from the examination referred to in Article 288, paragraph 1, of the Law is based. These justifications may include, but are not limited to:
 - a) a copy of certificates and diplomas obtained;
 - b) a certificate of additional / continuing training;
 - c) a certificate of approvals or registrations in a foreign distributor register of distributors;
 - d) certifications on employments in the insurance sector.

- (2) The application for approval of an individual broker also includes the following documents:
- 1) a business plan indicating the type and volume of operations envisaged, as well as a description of its administrative and accounting structure;
 - 2) a declaration of honour stating that the candidate broker meets the financial assets requirement referred to in section 290;
 - 3) proof of professional civil liability coverage in accordance with Article 6(3).
 - 4) information on the reasons for choosing to establish in the Grand Duchy of Luxembourg, where the proposed activity of the natural person broker is directed exclusively or mainly towards a single Member State other than the Grand Duchy of Luxembourg.
- (3) The CAA may also request any other information necessary for the assessment of the application.

Art. 5 - Content of the application for approval of an insurance sub-broker.

The application for approval is submitted by the principal broker to the Minister through the CAA. It is accompanied by the following documents and information on the candidate sub-broker:

- 1) the "FP 4" form, which may be downloaded from the CAA website, duly completed and validly signed and containing in particular the following information and sections:
 - a) information on the identification of the candidate;
 - b) an indication of the group of classes for which approval is sought;
 - c) information on the candidate's activities;
 - d) information on the candidate's good repute;
 - e) information on the candidate's skills and
 - f) the application form duly signed by the principal broker and the candidate sub-broker;
- 2) a certificate of residence;
- 3) an extract from the Luxembourg criminal record, less than 3 months old;
- 4) an extract from the criminal record, less than 3 months old, of the country of private residence if such country is not the Grand Duchy of Luxembourg or, if no criminal record exists in that country, a declaration before a notary on any convictions,
- 5) a copy of a valid identification document (ID or passport) of the candidate,
- 6) the justifications on which an application for exemption from the examination referred to in Article 288, paragraph 1, of the Law is based. These justifications may include, but are not limited to:
 - a) a *curriculum vitæ*;
 - b) a copy of certificates and diplomas obtained;
 - c) a certificate of additional / continuing training;
 - d) a certificate of approvals or registrations in a foreign register of distributors;
 - e) certification on employments in the insurance sector.

The CAA may also request any other information necessary for the assessment of the application.

Art. 6 - Insurance contract covering professional civil liability.

- (1) The professional indemnity insurance contract, referred to in Article 290 of the Law, must include an insurance cover, dedicated to the insurance or reinsurance intermediation activity, of at least 1,310,000 Euro per claim and 1,930,000 Euro in aggregate per year. This insurance contract shall cover at least the whole territory of the European Union.
- (2) Any deductible must be unenforceable against the injured party.
- (3) In order to provide evidence of professional civil liability cover as from 1 January 2020, a broker must have the form "declaration of professional liability insurance cover", which may be downloaded from the CAA's website, signed by the insurance undertaking granting the cover referred to in paragraph 1 and submitted annually to the CAA before 31 January of the relevant year of cover.

Before 1 January 2020, a broker must provide evidence of professional civil liability cover by an insurance certificate issued by the insurance undertaking granting the cover referred to in paragraph 1.

Art. 7 - Changes in information.

- (1) An insurance or reinsurance broker, an executive of a brokerage firm or an insurance sub-broker shall be required to report without delay any change in the information on his identification and good repute that he has provided as part of his approval file referred to in Articles 4 and 5 respectively.
- (2) The executive of a brokerage firm managing a brokerage firm on a daily basis shall be required to notify the CAA of any change in the information on the identification and good repute of the brokerage firm which has been provided as part of the approval file referred to in Article 3.
- (3) The changes referred to in paragraphs 1 and 2 shall be provided to the CAA using the forms referred to in Articles 3, 4 and 5 respectively.
- (4) Any notification by the Minister or the CAA to any of the persons referred to in this Article shall be validly made to the last business address communicated in accordance with the provisions of paragraphs 1, 2 and 3.

Art. 8 - Transfer of approval.

The transfer of approval for an executive of an insurance or reinsurance brokerage firm or an insurance sub-broker shall be made by means of an application for withdrawal of approval, as referred to in Article 9, followed by an application to be submitted by the new broker for whom the natural person intends to carry out insurance intermediation operations.

Art. 9 - Application for withdrawal of approval.

The application for withdrawal of an approval referred to in Article 3, 4 or 5 shall be made by using the form specific to each approval which may be downloaded from the CAA website.

Section 3 - Insurance agents and agencies.

Art. 10 - Content of the application for approval of an insurance agency.

The application for approval is submitted by the principal insurance undertaking to the Minister through the CAA. It is accompanied by the following documents and information about the insurance agency:

- 1) the form named "DA AGENCY", which may be downloaded from the CAA website, duly completed and signed and containing in particular the following information and sections:
 - a) information on the head office;
 - b) information on the executive or executives responsible for the day-to-day management of the insurance agency;
 - c) an indication of the group of classes for which approval is sought;
 - d) information on the composition of the corporate bodies;
 - e) information on all direct or indirect shareholders holding a qualifying holding in, or exercising control over, the applicant agency; and
 - f) the application form for approval, duly signed by the principal insurance undertaking and the legal person applying for approval;
- 2) the articles of incorporation of the legal person or, in the event of a subsequent amendment thereof, the latest consolidated version of the articles;
- 3) an updated extract from the trade and companies register, less than 3 months old;
- 4) for companies incorporated for at least 6 months, an extract from the legal person's Luxembourg criminal record, less than 3 months old;
- 5) a graphical organisation chart showing at least any direct or indirect shareholders holding a qualifying interest in, or exercising control over, the applicant agency with the respective participation rates;
- 6) the form named "Declaration on the beneficial owner of a qualifying holding in an insurance agency" for each shareholder holding a qualifying holding or exercising control;
- 7) confirmation from the applicant legal person demonstrating that the holdings and close links held by its shareholders over it do not prevent the effective exercise of the CAA's supervisory function;
- 8) in the case of an application for joint approval referred to in Article 284-2, paragraph 1, subparagraph 3, of the Law, a document to provide evidence that the principal insurance undertakings all agree to have the insurance agency approved in the same class of insurance;
- 9) evidence that the agent who will manage the agency has knowledge in the field of business management as required by Article 284, paragraph 1, point b), of the Law.

The CAA may also request any other information necessary for the assessment of the application.

Art. 11 - Content of the application for approval of an insurance agent.

The application for approval is submitted by the principal insurance undertaking to the Minister through the CAA. It is accompanied by the following documents and information about the insurance agent:

- 1) the form named "DA AGENT", which may be downloaded from the CAA website, duly completed and validly signed, containing in particular the following information and sections:
 - a) information on the identification of the candidate;
 - b) an indication of the group of classes for which approval is sought;
 - c) information on the candidate's activities;
 - d) information on good repute;
 - e) information on the candidate's skills and
 - f) the application form for approval, duly signed by the principal insurance undertaking and the candidate for approval;
- 2) a certificate of residence;
- 3) an extract from the Luxembourg criminal record, less than 3 months old;
- 4) an extract from the criminal record, less than 3 months, of the country of private residence if such country is not the Grand Duchy of Luxembourg or, if no criminal record exists in that country, a declaration before a notary on any convictions;
- 5) a copy of a valid identification document (ID or passport) of the candidate;
- 6) the justifications on which an application for exemption from the examination referred to in Article 288, paragraph 1, of the Law is based. These justifications may include, but are not limited to:
 - a) a *curriculum vitae*;
 - b) a copy of certificates and diplomas obtained;
 - c) a certificate of additional / continuing training;
 - d) a certificate of approvals or registrations in a foreign register of distributors;
 - e) certification on employments in the insurance sector.
- 7) in the case of an application for joint approval referred to in Article 284-2, paragraph 1, subparagraph 3, of the Law, a document to provide evidence that the principal insurance undertakings all agree to have the insurance agent approved in the same class of insurance.

The CAA may also request any other information necessary for the assessment of the application.

Art. 12. - Changes in information.

- (1) An insurance agent shall be required to report without delay any change in the information on his identification and good repute that he has provided as part of his approval file referred to in Article 11.
- (2) The agent responsible for the day-to-day management of an insurance agency shall be required to notify the CAA of any change in the information on the identification and good repute of the insurance agency which has been provided as part of the approval file referred to in Article 10.
- (3) The changes referred to in paragraphs 1 and 2 shall be provided to the CAA using the forms referred to in Articles 10 and 11 respectively.
- (4) Any notification by the Minister or the CAA to any of the persons referred to in this Article shall be validly made to the last business address which was communicated in accordance with the provisions of paragraphs 1, 2 or 3.

Art. 13. - Transfer of approval.

The transfer of approval for an insurance agency or agent shall be made by means of an application for withdrawal of approval as referred to in Article 14 followed by an application to be submitted by the new insurance undertaking for which the agent intends to carry out insurance intermediation operations.

Art. 14. - Application for withdrawal of approval.

- (1) An application for the withdrawal of an insurance agent's approval, made to the Minister, shall be sent to the CAA by the agent concerned or by the insurance undertaking on whose behalf the latter holds his approval.
- (2) The application for withdrawal of an insurance agency's approval, made to the Minister, shall be sent to the CAA by the natural person representing the insurance agency concerned or by the insurance undertaking on behalf of which the insurance agency holds its approval.
- (3) Applications for withdrawal referred to in paragraphs 1 and 2 shall be made using a form specific to each approval that may be downloaded from the CAA website.

Art. 15. - Death of the insurance agent.

The heirs and legatees of a deceased agent may temporarily assume the management of the portfolio for a period not exceeding six months, unless extended by the CAA. Those persons must, within six weeks of the opening of the deceased's succession, appoint a single representative who, upon his request addressed to the CAA, receives a temporary approval for the period in question.

Any person who, on expiry of the temporary approval, continues to carry on insurance intermediation activities without the approval of the Minister is subject to the penalties provided for in Article 303 of the Law.

Section 4 - Specialisation

Art. 16 - Knowledge requirements.

An intermediary being a legal person must be effectively managed by an executive being a natural person who has been granted the same approvals as the legal person.

A multi-class intermediary being a legal person may also rely on intermediaries who are natural persons, either single-class or multi-class, it being understood that each product may only be distributed by an intermediary who is approved for the group of classes to which this product belongs.

Section 5 - Insurance intermediaries on an ancillary basis.

Art. 17 - Content of the application for registration of an ancillary insurance intermediary being a legal person.

The application for registration is sent to the CAA. It is accompanied by the following documents and information:

- 1) the form named "DI IATA PM", which may be downloaded from the CAA website, duly completed and validly signed with the registration form and containing in particular the following information and sections:
 - a) the company name and the address of the registered office of the applicant legal person;

- b) information on the planned activity;
 - c) information on the person responsible for the distribution, appointed by the legal person, as well as on his competence and good repute;
 - d) information on the composition of the corporate bodies;
 - e) information on all direct or indirect shareholders holding a qualifying interest in, or exercising control over, the applicant legal person;
- 2) the articles of incorporation of the legal person or, in the event of subsequent amendment thereof, the latest consolidated version of the articles;
 - 3) an extract from the trade and companies register, less than 3 months old;
 - 4) a graphical organisation chart showing at least any direct or indirect shareholders holding a qualifying interest in, or exercising control over, the applicant legal person with the respective participation rates;
 - 5) an extract from the legal person's Luxembourg criminal record, less than 3 months old;
 - 6) confirmation from the applicant legal person demonstrating that the interests or relationships of control held by its shareholders over it do not prevent the effective exercise of the CAA's supervisory function;
 - 7) in so far as the applicant legal person does not operate under the responsibility of an insurance undertaking, evidence of a professional indemnity cover, as referred to in Article 20.

The CAA may also request any other information necessary for the assessment of the application.

Art. 18. - Content of the application for registration of an individual ancillary insurance intermediary.

The application for registration is sent to the CAA. It is accompanied by the following documents and information:

- 1) the form named "DI IATA PPH", which may be downloaded from the CAA website, duly completed and validly signed by the applicant, containing in particular the following information and sections:
 - a) information on the identification of the applicant;
 - b) information on the applicant's activities;
 - c) information on good repute and
 - d) information on the applicant's skills;
- 2) a certificate of residence;
- 3) an extract from the Luxembourg criminal record, less than 3 months old;
- 4) an extract from the criminal record, less than 3 months old, of the country of private residence if such country is not the Grand Duchy of Luxembourg or, if no criminal record exists in that country, a declaration before a notary on any convictions;
- 5) a copy of a valid identification document (ID or passport) of the applicant;
- 6) in so far as the applicant does not work under the responsibility of an insurance undertaking, evidence of professional indemnity cover, as referred to in Article 20.

The CAA may also request any other information necessary for the assessment of the application.

Art. 19. - Configuration of the list of individual ancillary insurance intermediaries exempt from registration in the register of distributors pursuant to Article 280, paragraph 4 of the Law.

- (1) In addition to the information provided for in Article 280, paragraph 4, of the Law, the list of individual ancillary insurance intermediaries exempt from registration, must contain the following information for each employee individually:
 - a) the stating date of the natural person's ancillary insurance intermediation activity on behalf of his employer started;
 - b) the end date of the ancillary insurance intermediation activity of the natural person on behalf of his employer;
 - c) an indication of the type of product marketed by the employee;
 - d) a history of training courses relating to the product marketed on an ancillary basis taken by the natural person.
- (2) The information contained in this list must be configured so as to be able at any time to track record of each employee who carries on, or has carried on, ancillary insurance intermediation activities on behalf of his employer.

Art. 20. - Insurance contract covering professional civil liability.

- (1) The professional indemnity insurance contract, referred to in Article 285, paragraph 1, point b), of the Law, must be proved in writing and must include a cover dedicated to the ancillary insurance intermediation activity of at least:
 - 50,000 Euro per claim and
 - 500,000 Euro in aggregate per year.

This insurance contract shall cover at least the activities of the ancillary insurance intermediary in the Grand Duchy of Luxembourg and in those States in which he has notified his intention to work under the freedom to provide services or the freedom of establishment.

- (2) Any deductible must be unenforceable against the injured party.

Section 6 - Direct sales

Art. 21. - Configuration of the list of employees of insurance or reinsurance undertakings directly involved in insurance or reinsurance distribution.

- (1) The lists referred to in Article 285-1 of the Law to be drawn up by insurance or reinsurance undertakings pursuant to paragraphs 1 and 2 of the same Article must contain, in addition to the information provided for in paragraph 5 of the same Article, the following information for each employee individually:
 - a) the starting date the employee's direct sales activity on behalf of his employer;
 - b) the end date of the employee's direct sales activity on behalf of his employer;
- (2) These lists must be configured so as to be able at any time to trace record of the history of each employee who carries on, or has carried on, insurance or reinsurance distribution activities in the context of direct sales on behalf of his employer.

Chapter 3 - Professional Knowledge

Sub-Chapter 1 - The initial verification of knowledge

Section 1 - Insurance agents and sub-brokers

Art. 22. - Registration for the examination.

- (1) The candidate must take the exam, except in the case of an exemption.
An exemption may be granted either for all or part of the modules of Article 23, paragraph 3.
- (2) The examination takes place on a quarterly basis. The CAA determines the exact locations, dates and times at least two months in advance.
- (3) In order to be able to validly register a candidate, the insurance undertaking, insurance broker or insurance brokerage firm must provide the CAA with the application for approval referred to in Article 5 or Article 11.
- (4) The candidate must be registered for the exam with the CAA in writing at least 21 calendar days before the effective date of such exam.

Art. 23. - Examination process.

- (1) The examination takes place in writing.
- (2) The examination questions are asked in French or German. The candidate must also answer in one of these two languages.
- (3) The examination consists of three modules dealing respectively with:
 - a) topics common to the life and non-life programs;
 - b) topics specific to the non-life program;
 - c) topics specific to the life program.
- (4) The candidate for the group of non-life classes must successfully complete modules a) and b) of paragraph 3.
The candidate for the group of life classes must successfully complete modules a) and c) of paragraph 3.
The candidate for the groups of non-life and life classes must successfully complete modules a), b) and c) of paragraph 3.
- (5) By way of derogation from paragraph 4, an insurance agent or sub-broker who is approved in one class and being a candidate for the examination for the other class is exempt from the requirement to pass module a).

Art. 24. - Conditions for successful completion of a module.

In order to pass a module, the candidate must obtain at least 60 % of the maximum mark of that module in the written examination or pass the additional oral examination referred to in Article 25.

Art. 25. - Additional oral examination.

- (1) A candidate who has not obtained 60% of the maximum mark in one or more modules in the written examination is eligible to take an additional oral examination in these modules on the double condition to have obtained in the written examination:

- at least 50% of the total points of the modules for which he was registered for the written examination or for which an exemption had been granted, and
- at least 40% of the points of each module for which he or she was registered in the written examination.

For the application of the first condition of subparagraph 1, the candidate is deemed to have obtained a mark corresponding to 60% of the maximum mark of each module for which he benefits from an exemption referred to in Article 22, paragraph 1.

- (2) The CAA shall determine the exact place, date and time of the additional oral examination, referred to in paragraph 1, at least two weeks before it takes place.
- (3) Questions for the additional oral examination may be asked in Luxembourgish, French, German or English, depending on the candidate's choice, and answers are also to be provided in one of these languages.
- (4) The additional oral examination takes place before the board of examiners described in Article 27.
- (5) The candidate who has successfully passed the additional oral examination in a module is given a mark corresponding to 60% of the maximum mark awarded to that module in the written examination.

Art. 26. - Further participation in the examination.

- (1) Any candidate who, without valid excuse, fails attend the examination or, where applicable, the additional oral examination at the place, date and time fixed shall automatically be considered as having failed. The candidate whose excuse has been deemed valid is automatically registered for the next examination session.
- (2) In the event of failure to pass the examination, the candidate may only take part in a new examination after having submitted a new application in accordance with these Regulations, including the additional payment of the examination fee provided for in the fees regulations.

Art. 27. - Board of examiners.

- (1) The examination takes place before a board of examiners composed of four members, including two civil servants from the CAA and two persons representing the insurance sector.
- (2) The Minister appoints the four full members of the board of examiners. He appoints the chairperson from among the members of the board of examiners who are civil servants of the CAA. He also appoints four alternate members, including two civil servants from the CAA and two persons representing the insurance sector.

In the event that the chairperson is unable to attend, his duties shall be performed by the longest serving of the two alternate members representing the CAA.

- (3) The secretariat of the board of examiners is assumed by a secretary and an alternate secretary appointed by the Minister from among the members of the board of examiners who are officials of the CAA.
- (4) The effective and alternate members of the board of examiners shall be appointed for a period of three years. Appointments are renewable.
- (5) The Minister shall determine the compensation of the members of the board of examiners that shall be met by the CAA.

- (6) No member of the board of examiners may take part in the examination of a relative or ally up to and including the fourth degree or of an employee of the company to which he belongs, failing which the examination of that person shall be invalid.

Art. 28. – Marking of the copies and board of examiners’ deliberations.

- (1) Each candidate's written answers are subject to a triple marking.
- (2) Decisions of the board of examiners are taken by majority vote and are without appeal. In the event of a tie, the chairperson shall have the casting vote.
- (3) The result of the examination is communicated in writing to the candidate.

Art. 29. - Examination program.

The examination program is detailed in Annex I to this Regulation, which differentiates between:

- a) topics common to the life and non-life programs;
- b) topics specific to the non-life program;
- c) topics specific to the life program.

Section 2 – Individual insurance and reinsurance brokers and executives of insurance and reinsurance brokerage firms

Art. 30. - Registration for the examination.

- (1) The candidate must take the examination, except in the case of an exemption.
An exemption may be granted either for all or part of the modules of Article 31 paragraph 33.
- (2) The examination takes place twice a year. The CAA determines the exact locations, dates and times at least two months in advance.
- (3) In order to be able to register validly for the examination, the CAA must have received an application for approval the candidate in accordance with Article 4.
- (4) The candidate must be registered for the examination with the CAA in writing at least 21 calendar days before the effective date of the examination.

Art. 31. - Examination process.

- (1) The examination takes place in writing.
- (2) The examination questions are asked in French and the answers are also to be provided in French.
However, at least 21 calendar days before the examination, the candidate may ask the CAA in writing to receive the examination questions in German or English and also to be allowed to answer them in one of these two languages.
- (3) The examination consists of three modules dealing respectively with:
 - a) topics common to the life and non-life programs;
 - b) topics specific to the non-life program;
 - c) topics specific to the life program.
- (4) The candidate for the group of non-life classes must successfully complete modules a) and b) of paragraph 3.

The candidate for the group of life classes must successfully complete modules a) and c) of paragraph 3.

The candidate for the groups of non-life and life classes must successfully complete modules a), b) and c) of paragraph 3.

The candidate for approval as a reinsurance broker or as an executive of a reinsurance brokerage firm must successfully complete modules a), b) and c) of paragraph 3.

Art. 32. - Conditions for successful completion of a module.

In order to pass a module, the candidate must obtain at least 60 % of the maximum mark of that module in the written examination or pass the additional oral examination referred to in Article 33.

Art. 33. - Additional oral examination.

(1) A candidate who has not obtained 60% of the maximum mark in one or more modules in the written examination is eligible to take an additional oral examination in these modules on the double condition to have obtained on the written examination:

- at least 50% of the total maximum mark of the modules for which he was registered for the written examination or for which an exemption had been granted, and
- at least 40% of the maximum mark of each module for which he or she was registered in the written examination.

For the application of the first condition of subparagraph 1, the candidate is deemed to have obtained a mark corresponding to 60% of the points of each module for which he benefits from an exemption referred to in Article 22, paragraph 1.

- (2) The CAA shall determine the exact place, date and time of the additional oral examination, referred to in paragraph 1, at least two weeks before it takes place.
- (3) Questions for the additional oral examination may be asked in Luxembourgish, French, German or English, depending on the candidate's choice, and answers are also to be provided in one of these languages.
- (4) The additional oral examination takes place before the board of examiners described in Article 35.
- (5) The candidate who has successfully passed the additional oral examination in a module is given a mark corresponding to 60% of the maximum mark awarded to that module in the written examination.

Art. 34. - Further participation in the examination.

- (1) Any candidate who, without valid excuse, fails to attend the examination or, where applicable, the additional oral examination at the place, date and time fixed shall automatically be considered as having failed. The candidate whose excuse has been deemed valid is automatically registered for the next examination session.
- (2) In the event of failure to pass the examination, the candidate may only take part in a new examination after having submitted a new application for approval, including the additional payment of the examination fee provided for in the fees regulations.

Art. 35. - Board of examiners.

- (1) The examination takes place before a board of examiners composed of three members, including two civil servants from the CAA and a person chosen on the basis of his professional qualification.
- (2) The Minister appoints the three full members of the board of examiners. It appoints the chairperson from among the members of the board of examiners who are civil servants from the CAA. He also appoints three alternate members, including two civil servants from the CAA and one person chosen on the basis of his professional qualification.

In the event that the chairperson is unable to attend, his duties shall be performed by the highest-ranking representative of the CAA.
- (3) The secretariat of the board of examiners is assumed by a secretary and an alternate secretary appointed by the Minister from among the civil servants from the CAA.
- (4) The effective and alternate members of the board of examiners shall be appointed for a period of three years. Appointments are renewable.
- (5) The Minister shall determine the compensation of the members of the board of examiners that shall be met by the CAA.
- (6) No member of the board of examiners may take part in the examination of a relative or ally up to and including the fourth degree or of an employee of the company to which he belongs, failing which the examination of that person shall be invalid.

Art. 36. - Marking of copies and board of examiners` deliberations.

- (1) Each candidate's written answers are subject to a triple marking.
- (2) Decisions of the board of examiners are taken by majority vote and are without appeal. In the event of a tie, the chairperson shall have the casting vote.
- (3) The result of the examination is communicated in writing to the candidate.

Art. 37. - Examination program.

The examination program is detailed in Annex II to this Regulation, which differentiates between:

- a) topics common to the life and non-life programs;
- b) topics specific to the non-life program;
- c) topics specific to the life program.

Sub-Chapter 2 - Ongoing Professional Training and Development

Art. 38. Scope.

- (1) This sub-chapter applies to persons registered in one of the lists provided for in Articles 21 and 51 within a Luxembourg insurance or reinsurance undertaking and to all Luxembourg intermediaries, within the meaning of Article 279, point 25, of the Law, with the exception of ancillary insurance intermediaries.
- (2) For the purposes of this sub-chapter, the following definitions shall apply:
 1. "change of status" means the fact for a natural person
 - to change the approval between the different categories of insurance or reinsurance intermediaries provided for in Article 280, paragraph 2, of the Law,
 - or

- to change from an approval as an insurance or reinsurance intermediary within the meaning of Article 280, paragraph 2, of the Law to a registration on one of the lists provided for in Articles 21 and 51, or
 - change from a registration on one of the lists provided for in Articles 21 and 51 to an approval as an insurance or reinsurance intermediary within the meaning of Article 280, paragraph 2, of the Law;
2. "holding office" means either being approved in the Grand Duchy of Luxembourg as an insurance or reinsurance intermediary, or being registered in one of the lists provided for in Articles 21 and 51;
 3. "intermediaries" means any persons falling within the scope defined in paragraph 1;
 4. "leaving office" means no longer having an approval in the Grand Duchy of Luxembourg as an insurance or reinsurance intermediary or ceasing to be registered in one of the lists provided for in Articles 21 and 51.
- (3) For the purposes of this sub-chapter, the start date for holding office shall be the earliest of the following dates:
- the date of first approval in the Grand Duchy of Luxembourg as an insurance or reinsurance intermediary;
 - the date of the first registration on one of the lists provided for in Articles 21 and 51.

For the purposes of this sub-chapter, the date of leaving office is the date on which an intermediary:

- no longer has an approval in the Grand Duchy of Luxembourg as an insurance or reinsurance intermediary and
- is no longer registered in one of the lists provided for in Articles 21 and 51;

Art. 39. - Training content.

- (1) The training to be followed by each intermediary shall be chosen so as to meet the minimum professional knowledge requirements set out in Annex III.
- (2) The following three pillars are eligible for continuing training under Article 288, paragraph 2, of the Law:
 - Pillar 1: insurance and reinsurance legislation;
 - Pillar 2: insurance or reinsurance products intended for sale by the intermediaries concerned;
 - Pillar 3: the intermediary's business techniques and personal development.
- (3) Pillar 1 training may not be less than 15 hours for each three-year reference period referred to in Article 40.
- (4) Eligible Pillar 3 training may not exceed 15 hours for each three-year reference period referred to in Article 40.
- (5) For multi-class intermediaries, at least ten hours of training under pillars 1 or 2 must be devoted to each group of classes per three-year reference period.
- (6) For intermediaries whose approval entitles them to distribute insurance contracts of life insurance undertakings or credit/suretyship insurance products, at least five hours of training must cover legislation and means to combat money laundering and terrorist financing for each reference period referred to in Article 40.

- (7) For individual brokers whose approval allows the distribution of insurance and reinsurance, at least 10 training hours under pillars 1 or 2 must be devoted to direct insurance and 10 hours to reinsurance per three-year reference period.
- (8) Eligible training courses may be internal, external or distance learning training courses.

Art. 40. - Reference period.

- (1) The reference period for the assessment of the number of hours referred to in Article 39 shall be three years starting on the first day of a calendar year.
- (2) The first reference period shall begin on 1 January of the year following the first entry into office of the intermediary.
- (3) In the event of a change of status or leaving office, the current reference period shall continue to run.
- (4) Each reference period is followed by a new period whether or not the intermediary is holding office at the beginning of that new period.
- (5) Where a reference period includes periods without approval or entry on one of the lists provided for in Articles 21 and 51, the number of hours of total continuing training and the minimums per pillar shall be reduced proportionately.
- (6) In the event that a single-class intermediary becomes a multi-class intermediary during a reference period, the provisions of Article 39, paragraphs 5 or 6, shall only apply from the next reference period.
- (7) Hours of training completed during a reference period in excess of the minimum requirements prescribed by the Law or these Regulations shall not be carried forward to the next reference period.

Art. 41 - Transitional period

For intermediaries who were holding office before 1st October 2018, the first reference period starts on 1 January 2019.

Art. 42. - Training officer.

- (1) Insurance or reinsurance undertakings performing direct sales, insurance undertakings using insurance agents, brokerage firms and ancillary insurance intermediaries being legal persons, hereinafter referred to as "responsible entities", shall appoint, from their midst, a person responsible for the training of intermediaries.
Shall not be considered to qualify as a direct sales operation the fact for a captive insurance or reinsurance undertaking to offer insurance or reinsurance solutions to the undertakings belonging to the group of which it forms part.
- (2) Individual insurance brokers are responsible for their own training as well as that of their sub-brokers.
- (3) The training officer is in charge of the following tasks:
 - a) to organise training for intermediaries;
 - b) to disseminate information on the training courses considered as being eligible;
 - c) to validate the training completed;
 - d) to determine for each training the number of recognised training hours;
 - e) to keep the individual training logbook referred to in Article 43 below;

- f) to alert intermediaries in case of risk of non-compliance with training obligations;
- g) to inform the management of the responsible entity of any non-compliance with an intermediary's training obligations;
- h) to ensure that intermediaries consistently meet the minimum professional knowledge and competence requirements set out in Annex III to this Regulation. Intermediaries who have successfully passed the examination referred to in sub-chapter 1, section 1 or section 2, depending on the approval held, are presumed to meet these knowledge requirements at the time of their approval.

Art. 43. - Training logbook.

- (1) A computer training logbook indicating the training completed must be kept for each intermediary.
- (2) Continuing training and refresher training referred to in Article 48 shall be indicated in separate sections.
- (3) For each training session, the logbook contains the following information:
 - a) the title of the training course;
 - b) the pillar within the meaning of Article 39, paragraph 2, to which the training is attributed to;
 - c) the group of classes within the meaning of Article 1, paragraph 3, to which the training is attributed to;
 - d) the organiser of the training;
 - e) the date of the training;
 - f) the duration of the training;
 - g) the eligibility of the training as continuing training;
 - h) the validation date in case of eligibility;
- (4) At the end of each calendar year, each intermediary must receive a list of the training courses validated during that year.
- (5) He must also have access, at all times, to his training logbook.
- (6) The responsible entities shall put into place an internal appeal against decisions taken by the training officer concerning the ineligibility of a training course.

Art. 44. - Plurality of insurance or reinsurance undertakings.

- (1) In the event that an intermediary is approved or registered in one of the lists provided for in Articles 21 and 51 on behalf of several insurance or reinsurance undertakings, these undertakings shall designate one of them, hereinafter referred to as the "leading undertaking", which shall be responsible for keeping the training logbook of that intermediary.
- (2) For each participation of an intermediary in a training organised by an insurance or reinsurance undertaking other than the leading undertaking, the training officer of the organising undertaking shall immediately inform the training officer of the leading undertaking of the participation in the training.
- (3) The training logbook shall mention for each training the name of the organising insurance or reinsurance undertaking.
- (4) The training officer of the organising insurance or reinsurance undertaking shall alone decide on the eligibility of any training for which he is responsible.

- (5) The training officer of the leading company shall regularly and at least twice a year inform the training officer of the other companies concerned of the training completed and shall alert them in good time if there is a risk of non-compliance with the training obligations of a common intermediary.

Art. 45. - Duration of training courses.

The number of eligible training hours per day is limited to 5 hours.

Art. 46. - Minimum character.

The provisions of this Regulation shall not affect the right of responsible entities to require intermediaries acting under their responsibility to undergo training additional to that referred to in Article 39 or to complete a number of hours of training exceeding the minimums prescribed by the Law or these Regulations.

Art. 47. - Non-compliance with continuing training obligations.

- (1) The responsible entities shall forward to the CAA before 31 January of each calendar year the list of intermediaries holding office on 31 December of the previous year who have not fulfilled their annual 15-hour training obligation without being in one of the situations referred to in paragraph 5.
- (2) The responsible entities shall forward to the CAA before 31 January of each calendar year the list of intermediaries holding office on 31 December of the previous year who have not complied with either the total number of hours of continuing training or the content of the training as provided for in Article 39 during the reference period ending on 31 December of the previous year.
- (3) In the case of a multitude of undertakings, notifications must be made by the leading undertaking.
- (4) The CAA may require intermediaries who have not fulfilled their training obligations referred to in paragraphs 1 and 2, instead of the penalties provided for in Article 303 of the Law, to undergo remedial training of a duration at least equivalent to 150% of those of the missing training hours.
- (5) The obligation to notify, referred to in paragraph 1, does not apply to intermediaries who took maternity leave, full-time parental leave or sick leave during the year under review, provided that the part of such leave situated in the year under review exceeded a period of two months.

As soon as the leave referred to in the preceding subparagraph ends, the training officer shall set up a plan with the intermediary concerned to make up for the missing training hours, the duration of which may not exceed two years from the end of the leave.

Art. 48. - Refresher training courses.

- (1) If a person who has not been employed or registered as an insurance or reinsurance intermediary, other than an ancillary insurance intermediary, in a register of distributors in another Member State, for a period exceeding 12 months for a group of classes for which he has passed a professional knowledge examination or has been exempt from such an examination, wishes to be approved for that group of classes, he must undergo a refresher training with a view to that approval.

- (2) The number of hours of the refresher training courses shall be 3 hours for each 12-month period of non-approval for the group of classes concerned, but may not exceed a total of 15 hours for that group of classes.
- (3) Refresher training courses must relate to subjects falling under pillar 1 and 2, as referred to in Article 39, paragraph 2.
- (4) The time spent in refresher training courses may not be considered as continuing training hours and must be entered in the training logbook.

Chapter 4 - Verification of good repute

Art. 49. - Frequency and forms of the verification of good repute referred to in Article 285-3 of the Law.

- (1) Agents and persons registered in one of the lists referred to in Articles 21 and 51 must provide their principal undertaking with the following information for the purpose of verifying their good repute:
 - a) a "declaration of honour" form which can be downloaded from the CAA website, duly completed and signed;
 - b) an extract from the Luxembourg criminal record and
 - c) an extract from the criminal record or similar document, from their country of residence if it is not the Grand Duchy of Luxembourg, at the beginning of each reference period referred to in Article 40 with the exception of the first one.Where an agent holds a joint approval for several insurance undertakings, they may designate an undertaking responsible for verifying good repute which must inform the other undertakings of its conclusions.
- (2) Sub-brokers and persons registered in the list referred to in Article 51, if applicable, must provide the brokerage firm on whose behalf they are approved, for the purpose of verifying their good repute:
 - a) a "declaration of honour" form which may be downloaded from the CAA's website, duly completed and signed;
 - b) an extract from the Luxembourg criminal record and
 - c) an extract from the criminal record or similar document, from their country of residence if it is not the Grand Duchy of Luxembourg, at the beginning of each reference period referred to in Article 40 with the exception of the first one.
- (3) Insurance or reinsurance undertakings and brokerage firms must keep at the disposal of the CAA, in electronic or paper form, the documents provided to them pursuant to paragraphs 1 and 2.

Chapter 5 - Cross-border activity of intermediaries.

Art. 50. - Natural persons covered by an intermediary's notification under the freedom to provide services

- (1) The notification referred to in Article 293 of the Law, relating to an insurance agency, shall cover distribution activities carried out on its behalf in the host Member State by the following natural persons:
 - a) the approved agent or agents, responsible for the day-to-day management of this insurance agency;
 - b) the other agents employed by the insurance agency.
- (2) The notification referred to in Article 293 of the Law, relating to an insurance agent shall cover the distribution activities carried out on his behalf in the host Member State by the following natural persons:

- a) the insurance agent.
- (3) The notification referred to in Article 293 of the Law, relating to an insurance or reinsurance brokerage firm shall cover distribution activities carried out on its behalf in the host Member State by the following natural persons:
 - a) the executive or executives of an approved brokerage firm, who are responsible for the day-to-day management of this brokerage firm;
 - b) other executives of the brokerage firm approved on its behalf;
 - c) the insurance sub-brokers approved on its behalf.
- (4) The notification referred to in Article 293 of the Law, relating to an insurance or reinsurance broker shall cover distribution activities carried out on his behalf in the host Member State by the following natural persons:
 - a) the insurance or reinsurance broker;
 - b) the sub-brokers approved on its behalf.
- (5) The notification referred to in Article 293 of the Law, relating to an ancillary insurance intermediary being a legal person, shall cover the distribution activities carried out on its behalf in the host Member State by the following natural persons:
 - a) the person responsible for the distribution activity referred to in Article 280, paragraph 4, subparagraph 1, of the Law;
 - b) individual ancillary insurance intermediaries, employed by the ancillary insurance intermediary being a legal person and exempt from registration pursuant to Article 280, paragraph 4, subparagraph 1, of the Law.
- (6) The notification referred to in Article 293 of the Law, relating to an individual ancillary insurance intermediary, shall cover distribution activities carried out on his behalf in the host Member State by the following natural persons:
 - a) the individual ancillary insurance intermediary.

Art. 51. - Persons working for a branch abroad.

- (1) Intermediaries must maintain lists of persons working on behalf of their foreign branches and directly involved in insurance distribution.
- (2) These lists must contain the following information for each person referred to in paragraph 1:
 - a) the surname;
 - b) the first names;
 - c) the date of birth;
 - d) the place of birth;
 - e) the starting date of the distribution activity;
 - f) the end date of the distribution activity;
 - g) the person's registration number in the register of distributors of the State in which the branch is located or proof that he fulfils equivalent conditions of professional competence and good repute necessary for such registration.
- (3) The information contained in the lists referred to in paragraphs 1 and 2 must be configured so as to be able at any time to trace record of each employee who carries on, or has carried on, insurance distribution activities on behalf of the intermediary.

Art. 52. Procedures for setting up a branch of a Luxembourg intermediary in a third country.

In addition to the information and documents listed in Article 291-2, paragraph 1 of the Law and pursuant to Article 4, letter b), of the Law, the notification must be accompanied by:

- a) a modification of the business plan including a description of the insurance or reinsurance products that the intermediary proposes to market through its branch in the host country;
- b) a legal opinion or other documentary evidence that the proposed activities are in line with the law of the host country.

Art. 53. - Conditions for a Luxembourg intermediary to carry on business under the freedom to provide services in a third country.

In addition to the information and documents listed in Article 291-2, paragraph 1, of the Law and pursuant to Article 4, paragraph b, of the Law, the notification must be accompanied by:

- a) an amendment to the business plan including a description of the insurance or reinsurance products that the intermediary proposes to market under the freedom to provide services in the host country;
- b) a legal opinion or other documentary evidence that the proposed activities are in accordance with the law of the host country.

Chapter 6 - The Register of Distributors

Art. 54. - Content.

- (1) For insurance or reinsurance brokerage firms, the following information is contained in the register of distributors:
 - the company name, address, corporate form, CAA registration number and registration number in the trade and companies register;
 - the surname, first name and CAA number of the natural person that actually manages the insurance or reinsurance brokerage firm and that is approved in the Grand Duchy of Luxembourg as an executive of a brokerage firm;
 - where applicable, the full name and CAA registration number of the other executives of the brokerage firm and sub-brokers approved on behalf of the brokerage firm;
 - the groups of classes for which the brokerage firm is approved;
 - where applicable, the Member States in which the insurance or reinsurance brokerage firm operates under the freedom of establishment or the freedom to provide services.
- (2) For insurance or reinsurance brokers and executives of insurance or reinsurance brokers, the following information is contained in the register of distributors:
 - the surname, first name and professional address of the broker or executive of a brokerage firm;
 - where applicable, the name of the brokerage firm for which he operates;
 - the groups of classes for which the natural person is approved;

- where applicable, the Member States in which the insurance or reinsurance broker operates under the freedom of establishment or the freedom to provide services.
- (3) For insurance sub-brokers, the following information is contained in the register of distributors:
- the surname, first name and professional address of the sub-broker;
 - the name of the brokerage firm or insurance or reinsurance broker for which he operates;
 - the groups of classes for which the natural person is approved;
- (4) For insurance agencies, the following information is contained in the register of distributors:
- the company name, address, corporate form and registration number in the trade and companies register;
 - the surname, first name of the natural person that actually manages the insurance agency and that is approved as an insurance agent in the Grand Duchy of Luxembourg;
 - where applicable, the names of the other insurance agents linked to the insurance agency;
 - insurance undertakings for which it has been approved as an insurance agency;
 - where applicable, the Member States in which the insurance agency operates under the freedom of establishment or the freedom to provide services.
- (5) For insurance agents:
- the full name and professional address of the agent;
 - where applicable, the name and address of the insurance agency for which he operates;
 - the insurance undertakings for which he has been approved as an agent;
 - where applicable, the Member States in which it carries out insurance intermediation activities under the freedom of establishment or the freedom to provide services.
- (6) For ancillary insurance intermediaries being legal persons:
- the company name, address, corporate form and registration number in the trade and companies register;
 - the surname and first name of the person responsible for the distribution activity;
 - where applicable, the Member States in which it carries out ancillary insurance intermediation activities under the freedom of establishment or the freedom to provide services.
- (7) For individual ancillary insurance intermediaries, not being employed by an ancillary insurance intermediary being legal person:
- the surname, first name and professional address of the individual ancillary insurance intermediary;
 - where applicable, the Member States in which he carries out ancillary insurance intermediation activities under the freedom of establishment or the freedom to provide services.

(8) For natural persons responsible for distribution activities within insurance and reinsurance undertakings:

- the surname and first name of the person responsible for distribution activities;
- the insurance or reinsurance undertaking which has appointed him to this function.

Chapter 7 - Final provisions.

Art. 55. Repeal provision.

The Regulation of the Commissariat aux Assurances N° 15/01 of 7 April 2015 relating to the aptitude test for candidate insurance brokers or reinsurance brokers or executives of insurance or reinsurance brokerage firms is repealed on the day of publication in the *Mémorial* of these Regulations, except for article 4 of the Regulation of the Commissariat aux Assurances N° 15/01 which will remain in force for the purposes of the examination session beginning in April 2019.

The Regulation of the Commissariat aux Assurances N° 15/02 of 14 September 2015 relating to the aptitude test for candidates for insurance agents and sub-brokers is repealed on the date of publication of this Regulation, except for Article 4 of the Regulation of the Commissariat aux Assurances N° 15/02 which will remain in force for the purposes of the examination session beginning in June 2019.

Art. 56. Entry into force.

This Regulation of the Commissariat aux Assurances shall enter into force on the day after its publication in the *Mémorial*, except:

- the provisions of Articles 24 and 25, paragraphs 1 and 5, which will only be applicable from the written examination in September 2019;
- the provisions of Articles 32 and 33, paragraphs 1 and 5, which will only be applicable from the written examination in October 2019.

Luxembourg, 26 February 2019

COMMISSARIAT AUX ASSURANCES

Claude WIRION
Director

Annick FELTEN
Member of the Directorate

Yves Baustert
Member of the Directorate

Please note that as the reference book does only exist in French, Annex I has not been translated into English

Annexe I

Programme d'examen pour candidats agents et sous-courtiers d'assurances

L'ouvrage de référence pour l'épreuve d'aptitude pour candidats agents et sous-courtiers d'assurances est :

L'assurance du particulier

Auteur : Roland Bisenius

Editeur : Promoculture - Larcier

Tome 1 (assurances de dommages): ISBN 978-2-87998-011-9

Tome 2 (assurances de personnes) : ISBN 978-2-87974-999-0

Les parties à étudier dans chacun des deux tomes sont reprises dans les tableaux ci-après.

Pour chaque partie il est précisé si elle fait partie du programme d'examen pour les intermédiaires d'assurance non vie, pour les intermédiaires d'assurance-vie ou pour tous les intermédiaires.

L'ASSURANCE DU PARTICULIER
Tome 1
Assurances de Dommages

Chapitre 2

Principes de base

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Définition	Tous les points	1	52 ss	x	x
Les éléments d'une opération d'assurance	Le risque	2.1.	56	x	x
	Les prestations de l'entreprise d'assurances	2.2.	57	x	x
Les bases techniques de l'assurance	La prime	3.6.	59 ss	x	x
	La co-assurance	3.7.1.	64	x	x
	La classification classique	4.1.	70 ss	x	x
La surveillance des compagnies d'assurances	La surveillance des compagnies d'assurances	5	76 ss	x	x

Chapitre 3

Le contrat d'assurance

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Définition du contrat d'assurance	Le contrat d'assurance	1.1.	84	x	x
	La proposition d'assurance	3.1.1.	87	x	x
	La note de couverture	3.1.2.	88	x	x
	L'information du preneur avant la conclusion du contrat	3.1.4.	90	x	x
	Les obligations de déclaration du preneur d'assurance	3.2.	95	x	x

	Le contenu du contrat et l'information du preneur au cours du contrat	3.4.	101	x	x
L'exécution du contrat	La déchéance partielle ou totale	3.5.1.	104	x	x
	Les assurances combinées	3.5.2.	105	x	x
La prime	Les modalités de paiement de la prime	3.5.3.	106	x	x
	Le non paiement de la prime en assurances autres que de personnes	3.5.4.	107	x	x
Le sinistre	La déclaration du sinistre – La prestation de l'entreprise d'assurances	3.5.5. et 3.5.9.	112 - 114	x	x
L'inexistence et la modification du risque	L'inexistence et la modification du risque	3.6.	115 ss	x	x
La durée	La prise d'effet de la garantie et la durée du contrat	3.7.	119	x	x
	La fin du contrat (sans les tableaux)	3.8.1 – 3.8.5.	125 ss	x	x
Dispositions propres aux assurances à caractère indemnitaire	La subrogation de l'entreprise d'assurances	4.5.	140	x	x
L'adaptation du contrat	L'adaptation du contrat	6	150	x	x
La langue officielle	La langue officielle	7	151	x	x

Chapitre 4

L'intermédiation en assurance

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Notions légales	Notions légales	1.	160	x	x
L'accès à la profession	L'agrément préalable	2.	162	x	x
L'agent d'assurance	L'agent d'assurance	3. (sans 3.4.)	163 ss	x	x
L'agence d'assurance	L'agence d'assurance	4.	168	x	x
Les courtiers sous-courtiers et sociétés de courtage	Les courtiers sous-courtiers et sociétés de courtage	5. (sans 5.5.)	169 ss	x	x
Registre des intermédiaires	Le registre des intermédiaires	8.	180	x	x
Incompatibilité	L'incompatibilité entre agent et courtier	9.	182	x	x
Obligations des intermédiaires	La recherche de nouveaux clients	11.	182 ss	x	x
Droits des Inter-médiaires	Les droits des intermédiaires d'assurance	12.	187 ss	x	x
Déontologie professionnelle	La déontologie professionnelle	13.	188 ss	x	x

Ont été supprimés les points 16.1 -16.2.4 et 17

Chapitre 5

La déductibilité fiscale

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
La déductibilité fiscale	La déductibilité fiscale	1.	204	x	x
Les primes d'assurances déductibles	Les primes d'assurances déductibles	2.	204	x	x
	Les plafonds déductibles	3.	207	x	x
	Les conditions de déductibilité des primes payées	4.	211	x	x

Chapitre 6

Généralités sur les assurances de dommages

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Généralités	Le principe indemnitaire	1.	220	x	
	Les frais de sauvetage	2.	221	x	
	Les modalités d'évaluation de la valeur assurée	3.	222	x	
	La fixation du montant assuré	4.	226	x	
	Règlement du sinistre	5.1. 5.2. 5.3. 5.7. 5.8.	229 ss	x	
	Règlement de l'indemnité	7.1.	253	x	

Chapitre 7

Les assurances obligatoires

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les assurances de responsabilités civiles obligatoires	Tout le chapitre	1. - 5.	262 ss	x	

Chapitre 10

La responsabilité extra-contractuelle

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les délits et quasi-délits	Les délits et les quasi-délits	2.	278	x	
La faute et le fait personnel	La faute et le fait personnel	3.	279	x	
La présomption de faute	La présomption de faute	4.	282	x	

Chapitre 11

L'assurance responsabilité civile

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les responsabilités pouvant être couvertes	Les responsabilités pouvant être couvertes	2.	292	x	
L'objet du contrat	L'objet du contrat	3.	292	x	
Les notions d'assurés et de tiers	L'assuré et le tiers	4.	293	x	
L'étendue de la garantie	L'étendue de la garantie	5.	294	x	
Les montants garantis	Les montants garantis, limites de garanties et plafonds de garanties	6.	297	x	
L'indexation	L'indexation	7.	298	x	
Les exclusions	Les exclusions	10.	302	x	
Le règlement du sinistre	La reconnaissance de la matérialité des faits	11.1.	303	x	
	L'action directe de la victime	11.2.	304	x	
	La libre disposition de l'indemnité	11.7.	305	x	

Chapitre 12

Formes d'assurances de responsabilités civiles

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
L'assurance responsabilité civile vie privée	L'assurance responsabilité civile vie privée	1.1.	310 ss	x	
L'assurance responsabilité civile propriétaire d'immeuble	L'assurance responsabilité civile propriétaire d'immeuble	1.2.	313 ss	x	

Chapitre 13

La responsabilité civile automobile

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Le caractère obligatoire	Les conditions générales d'assurances RC Auto	1.1.	332	x	
	L'assurance RC Auto est une assurance obligatoire	1.2.	332	x	
	La IV ^e directive européenne	1.3.4.	336	x	
	La V ^e directive européenne	1.3.5.	337	x	
Etendue territoriale	Etendue territoriale	3.	338	x	
Définitions	Tout sauf les points 4.4. et 4.5.	4.	339 ss	x	
Objet et étendue de l'assurance	Objet et étendue de l'assurance	5.	341 ss	x	
Somme assurée	Les sommes assurées	6.	342 ss	x	
Les recours	Les recours	7.	344 ss	x	
Dommages causés à l'étranger	Les dommages causés à l'étranger	8.	349 ss	x	
Secours bénévole	Le secours bénévole	9.	350 ss	x	
Franchises	Les franchises	10.	351 ss	x	

Exclusions	Exclusions Sans le tableau 11.6.	11.	353 ss	x	
Dispositions diverses	Dispositions diverses	14.	374 ss	x	

Chapitre 15

L'assurance dommages matériels au véhicule

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Définitions	Tout	1	388	x	
Formes d'assurances	Les garanties incendie, vol et bris de glaces (sans les points 2.1.3. et 2.1.4.)	2.1.	389 ss	x	
	Les formules pour assurer le véhicule en dommages matériels	2.2.	394 ss	x	
	Les franchises	3.	399 ss	x	
	Règlement du sinistre	4.	401 ss	x	

Chapitre 17 et 18

Le fonds commun de garantie automobile, le bureau luxembourgeois et le pool de risques aggravés

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Le fonds commun de garantie automobile	Mission	2. Sans le tableau page 415	412 ss	x	
	Limite d'intervention	8.	417	x	
	Exclusions	10.	418	x	
Le Bureau luxembourgeois	Mission	3. Sans les tableaux pages 423 et 424	422	x	
Pool de risques aggravés	Mission	2.	426	x	

Chapitre 22 et 23

L'assurance incendie et Les biens assurés en assurance incendie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
L'assurance incendie	L'assurance incendie	Tableau compris	454	x	
Le bâtiment	Le bâtiment	1.	456	x	
Le contenu	Le contenu	2.	457	x	
La situation du risque	La situation du risque	3.	459	x	

Chapitre 24

Généralités sur l'assurance incendie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Notion incendie	Définition de la notion d'incendie	1.	466 ss	x	
L'assurance incendie	L'assurance incendie	2.	472 ss	x	
	L'indexation	3.	474	x	

Chapitre 25

Les responsabilités en assurance incendie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Le risque locatif	Remarque préliminaire	1.	478	x	
	La base légale du risque locatif	2.1.	479	x	
	Le locataire unique	2.2.	480	x	
Le recours de voisins	Principe de base	3.	487 ss	x	
Le recours du propriétaire	Le recours du propriétaire	4.	490 ss	x	
Le trouble de jouissance immobilier	Le trouble de jouissance immobilier	6.	491 ss	x	

Chapitre 26

Le règlement sinistre en assurance incendie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
La base légale	Tout	1.	494 ss	x	
Les formes de règlement	Les formes de règlement	3.	496	x	

Chapitre 27

La tarification en assurance incendie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Le mode de construction et la couverture	Le mode de construction et la couverture	1.	500	x	
La situation locale	La situation locale	2.	500	x	
Le voisinage	Le voisinage	3.	501	x	
L'usage	L'usage	4.	501	x	
Règle du quart	Règle du quart	5.	501	x	
Taxe pompiers	Taxe pompiers	6.	502	x	

Chapitre 29

L'assurance tempête

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Définition	Définition de garantie normale	2.	510	x	
Les garanties accessoires non payantes	Les garanties accessoires non payantes	3.	510	x	
Les exclusions spécifiques	Les exclusions spécifiques	4.	511	x	
Le règlement de sinistres	Le règlement des sinistres	5.	512	x	

Chapitre 30

L'assurance dégâts des eaux

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Garantie normale	La garantie normale	1.	516	x	
Les garanties accessoires non payantes	Les garanties accessoires non payantes	2.	516 ss	x	
Les exclusions	Les exclusions spécifiques	3.	520 ss	x	

Chapitre 31

L'assurance vol

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Garantie normale	La garantie normale	1.	524	x	
Les garanties accessoires payantes	Les garanties accessoires payantes	2.	524	x	
Les biens assurés et les limitations de garanties	Les biens assurés et les limitations de garanties	3.	527	x	
Les exclusions spécifiques	Les exclusions spécifiques	5.	532	x	
La problématique des objets portés avec soi	La problématique des objets portés avec soi	6.	533	x	
Le règlement de sinistres	Le règlement de sinistres	8.	535	x	
Tarifcation	La tarification	9.	537	x	

Chapitre 32

L'assurance bris de glaces

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Garantie normale	La garantie normale	1.	540	x	
La clôture provisoire	Les frais de clôture provisoire	2.	540	x	
Les garanties accessoires payantes	Les garanties accessoires payantes	3.	541	x	
Les exclusions spécifiques	Les exclusions spécifiques	4.	541	x	
La tarification	La tarification	5.	542	x	

Chapitre 33

Les frais et pertes communs à certaines garanties

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les frais et pertes en assurance incendie	Les frais de sauvetage	2.1.	544	x	
	Les frais de déblais et de démolition	2.2. 3.2.	544 545	x	
	Les frais et honoraires d'expert	3.3.	545	x	
	Les pertes indirectes	3.4.	546	x	
	Les frais de déplacement et de relogement	3.5.	546	x	
	Le chômage immobilier	3.6.	547 ss	x	

Chapitre 34

Les catastrophes naturelles

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les catastrophes naturelles	Notion	1.	552	x	
	Les couvertures contractuelles	3.	553	x	

Chapitre 35

L'assurance combinée

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les formes d'assurance combinées	Le principe	1.	558	x	
	Les événements assurés	2.	559	x	
	Les sommes assurées	3.	560	x	
	L'indexation	5.	561	x	
	Le tableau de garanties	6.	562	x	

Chapitre 36

L'assurance défense et recours

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Risques assurés et limitations de garanties	La défense	2.1.	566	x	
	Le recours	2.2.	566	x	
Le règlement du sinistre	Le règlement du sinistre	3. sauf le point 3.5.	567 ss	x	

L'ASSURANCE DU PARTICULIER
Tome 2
Assurances de Personnes

Chapitre 2

L'assurance individuelle accident

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
La notion d'accident	La notion d'accident	2.	22	x	x
Le bénéficiaire	Le bénéficiaire en cas de sinistre	4.	23	x	x
Les assurances à caractère	indemnitaire	5.	23	x	x
	forfaitaire	6	24	x	x
Les exclusions	Les exclusions	7	27	x	x
Les règles de souscription	Les règles de souscription	8.	29 ss	x	x
Formes d'assurances	Les formes d'assurances	9.	31	x	x
Tarification	La tarification	11.	32	x	x

Chapitre 3

L'assurance accident du chauffeur

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
L'assurance occupant d'auto	L'assurance occupant d'auto	2.	36	x	
L'assurance du seul conducteur	L'assurance du seul conducteur	3.	37	x	

Chapitre 4

L'assurance maladie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les risques et les prestations assurés	Les risques et les prestations assurés	2.	42	x	x
Les garanties assurables	Les garanties assurables (sans le tableau du point 3.3.1. à la page 45)	3.	43	x	x
Les règles de souscription	Les règles de souscription	5.	46	x	x
La tarification	La tarification	6.	47	x	x

Chapitre 5

L'assurance vie

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
Les intervenants dans une opération d'assurances vie	Les intervenants dans une opération d'assurance vie	3	51 ss		x
Les formes d'assurance vie	Les formes d'assurances vie	4	65 ss		x
	Les contrats d'investissement à taux garanti	5.1.	96		x
	Les assurances en unités de compte	5.2.	98		x
Les règles de souscription	La proposition d'assurance	6.1.	108		x
	L'assurance sur la tête d'un tiers	6.3.	110		x
	Le consentement de l'assuré	6.4.	111		x
	Les sanctions d'une déclaration irrégulière	6.5.	111		x
	La liberté d'acceptation	6.7.	115		x
	Le contenu du contrat	6.9.	117		x
	L'aggravation du risque	6.13.	119		x
	La diminution du risque	6.14.	122		x
Le calcul de la prime	Le droit et la forme de renonciation	6.16.	125		x
	Le calcul de la prime Sans le tableau page 132	8.	129 ss		x
Le paiement de la prime	Le paiement de la prime	9.	135 ss		x
La provision mathématique	La provision mathématique	10.	139 ss		x
L'évolution du capital assuré	L'évolution du capital assuré	11.	142 ss		x
Les droits du preneur d'assurance	Les droits du preneur d'assurance	12.	148		x
Les difficultés de paiement	Les difficultés de paiement	13.1 – 13.4	148 ss		x

	Sans les tableaux pages 154 et 155				
Les droits du bénéficiaire	Les droits du bénéficiaire	14.	160 ss		x
Les exclusions	Les exclusions	17.	165 ss		x
La survenance de l'événement assuré	La survenance de l'événement assuré	18.1. – 18.7	168 ss		x

Chapitre 6

Le blanchiment d'argent

MATIERE	DETAIL	POINT	PAGE	Programme « non vie »	Programme « vie »
La notion	Notion	1.	182		x
La base légale	La base légale	2.1.	184		x
	Les personnes tenues	2.4.	187		x
Les obligations professionnelles	Les obligations professionnelles des entreprises d'assurances vie	3.	189 ss		x
Indices blanchiment	Renforcement de la lutte contre le blanchiment	4.	207 ss		x

Annex II

Initial knowledge of insurance or reinsurance brokers and executives of insurance or reinsurance brokerage firms¹

Topics to know	« Non-life » program	« Life » program
Legislation on the supervision of the insurance sector (Law of 7 December 2015, as amended, implementing regulations and specific circulars)		
The missions and powers of the Commissariat aux Assurances	X	X
Scope of the Law and exclusions	X	X
Principle of authorisation, scope of authorisation and provisions on ancillary risks	X	X
The right of establishment and the freedom to provide services of insurance and reinsurance undertakings	X	X
Branches established in the Grand Duchy of Luxembourg and belonging to insurance or reinsurance undertakings whose head office is located outside the EEA	X	X
Specific provisions relating to insurance and reinsurance	X	X
The PSAs ("Professionals of the insurance sector ")	X	X
Distributors of insurance and reinsurance products	X	X
General provisions	X	X
Access to distribution activity, operating conditions and end of activity	X	X
Professional and organisational requirements applicable to Luxembourg distributors	X	X
Freedom to provide services and freedom of establishment	X	X
Missions and powers of the CAA specific to the distribution of insurance and reinsurance	X	X
Information to be provided and conduct rules	X	X
Additional requirements for the distribution of insurance-based investment products		X
Common provisions applicable both to PSAs and intermediaries	X	X
Professional secrecy	X	X
Sanctions, coercive measures and appeals	X	X

¹ In addition to the legislation published on the CAA website, the candidate may consult the manual "L'assurance du particulier" by Mr Roland BISENIUS, listed in Annex I, or any similar book.

Circular Letter 15/3 of the Commissariat aux Assurances on investment rules for unit-linked life insurance products, as amended		X
PRIIPS Regulations (Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents)		X
Legislation on the fight against money laundering and terrorist financing (Law of 12 November 2004, as amended, and implementing regulations, in particular the provisions applicable to the insurance sector, and/or specific circulars)	X	X
The code of ethics of insurance brokers and the insurance broker quality charter (APCAL)	X	X
Basics accounting regarding insurance companies (Law of 8 December 1994 on the annual accounts of insurance and reinsurance undertakings, as amended)	X	X
Insurance Contract Law (Law of 27 July 1997 on insurance contracts, as amended)		
<ul style="list-style-type: none"> • definitions and components • general provisions • common provisions for all contracts • specific provisions for indemnity insurance • specific provisions for lump sum insurance • list of mandatory insurances 	X	X
Property and casualty insurance <ul style="list-style-type: none"> • general provisions • property insurance contracts • listing of the classes of insurance relating to damage insurance 	X	
Fire, storm, water damage, theft, glass breakage insurance	X	
Civil liability insurance <ul style="list-style-type: none"> • civil and criminal liability • contractual and tortious liability • civil liability insurance • the particularities of private liability and private property insurance • the concepts of compensable damages 	X	

<p>Life and health insurance</p> <ul style="list-style-type: none"> • personal accident insurance • health insurance • life insurance <ul style="list-style-type: none"> - persons involved in a life insurance transaction - the right and duty of the policyholder - the beneficiary - forms of guaranteed return and unit-linked life insurance - additional guarantees - the subscription rules - the technical bases - the role of life insurance in the event of financial difficulties for the policyholder 	<p>only accident and illness</p>	<p>X</p>
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Taxation and/or tax of insurance contracts		
<ul style="list-style-type: none"> • the fire service tax 	X	
<ul style="list-style-type: none"> • tax on non-life contracts 	X	
<ul style="list-style-type: none"> • the specific taxation of the various forms of life insurance contracts 		X
<ul style="list-style-type: none"> • tax deductibility 	X	X

<p>Third party motor liability insurance (Law of 16 April 2003, as amended, and its implementing regulations)</p> <ul style="list-style-type: none"> • Third party motor liability insurance • Vehicle damage insurance • Legal protection insurance • The Automobile Guarantee Fund • The Luxembourg Bureau • The Pool for Aggravated Risk 	X	
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Annex III

Minimum professional knowledge and competence requirements

(as referred to in Article 39 of this Regulation)

I. Non-life risks classified under classes 1 to 18 in Part A of Annex I to Directive 2009/138/EC:

- a) minimum necessary knowledge of terms and conditions of policies offered, including ancillary risks if covered by such policies;
- b) minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law, relevant tax law and relevant social and labour law;
- c) minimum necessary knowledge of claims handling;
- d) minimum necessary knowledge of complaints handling;
- e) minimum necessary knowledge of assessing customer needs;
- f) minimum necessary knowledge of the insurance market;
- g) minimum necessary knowledge of business ethics standards; and

II. Insurance-based investment products:

- a) minimum necessary knowledge of insurance-based investment products, including terms and conditions and net premiums and, where applicable, guaranteed and non-guaranteed benefits;
- b) minimum necessary knowledge of advantages and disadvantages of different investment options for policyholders;
- c) minimum necessary knowledge of financial risks borne by policyholders;
- d) minimum necessary knowledge of policies covering life risks and other savings products;
- e) minimum necessary knowledge of organisation and benefits guaranteed by the pension system;
- f) minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law and relevant tax law;
- g) minimum necessary knowledge of the insurance market and of the saving products market;
- h) minimum necessary knowledge of complaints handling;
- i) minimum necessary knowledge of assessing customer needs;
- j) conflicts of interest management;
- k) minimum necessary knowledge of business ethics standards; and
- l) minimum necessary financial competency.

III. Life risks classified in Annex II to Directive 2009/138/EC:

- a) minimum necessary knowledge of policies including terms, conditions, the guaranteed benefits and, where applicable, ancillary risks;
- b) minimum necessary knowledge of organisation and benefits guaranteed by the pension system of the relevant Member State;
- c) knowledge of applicable insurance contract law, consumer protection law, data protection law, anti-money laundering law and, where applicable, relevant tax law and relevant social and labour law;
- d) minimum necessary knowledge of the insurance and other relevant financial services markets;
- e) minimum necessary knowledge of complaints handling;
- f) minimum necessary knowledge of assessing consumer needs;
- g) conflicts of interest management;
- h) minimum necessary knowledge of business ethics standards; and
- i) minimum necessary financial competency.