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Law for Insurers in Spain and Portugal

Contract Law-Taxes-AML-Regulatory Law

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*This book is dedicated to
the idea of an increasingly united European Union*

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez

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Introduction

I think (and hope) this book is a practical and an in-depth study of some difficult and specific legal subjects which are key in the development of insurance business in Spain and Portugal. How do we know that these are the key subjects? Why do we think it is a practical study? The answer is simple: it is based on our professional experience and on multiple reports that we have prepared over a period of more than 25 years, responding to some frequent questions asked by insurers, clients of ours.

On purely practical grounds, I have decided to publish it in English. This book is aimed above all at non-Spanish insurance companies and brokers who operate or are considering operating in Spain and Portugal. Obviously, for them and for all the practitioners (lawyers, actuaries, tax advisors and consultants in general) who advise them, the availability of this kind of information in English is very important. There is no similar study published in this language.

I wish to thank Miguel Ormaeche for his most remarkable contribution, especially concerning subjects where he is the top expert in Spain. Indebted to my

colleagues Blanca Briones, María Prados and Paloma Avellán for their assistance.

I hope this book will prove to be a useful and practical guide.

SEGUNDO RUIZ

March 2017

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I. Spain

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Insurance regulations

– *Ley 50/1980, de 8 de octubre, de contrato de seguro* (Insurance Contract Act). Articles 2 and 44 of this Act establish that its stipulations are mandatory for all insurance contracts with the exception of contracts covering large risks as defined in article 107.2 or where the Act itself provides otherwise.

Article 107 et seq. of the Insurance Contract Act establish the rules on International Private Law, specifying the law applicable to each contract. They refer equally to Spanish domestic insurance companies and those European Economic Area (EEA) insurance companies that provide contracts in Spain through FoS (freedom of services) or through a branch.

If the policyholder is a person with residence in Spain, the Spanish Insurance Contract Act must be applied. However, in the case that they are citizens of another country of the EEA, they can agree with the insurer to apply the law corresponding to the policyholder's nationality. Consequently, if the policyholder and the insurer agree to apply the law of the policyholder's nationality, the Spanish Insurance Contract Act must not be applied according to article 108.1(a).

Spanish law will also apply to collective life insurance contracts concluded in compliance with or as a result of a work contract subject to Spanish law.

In relation to non-life insurances, generally speaking, the Spanish Insurance Contract Act will apply to all property and casualty insurance contracts with risks located on Spanish soil in which the policyholder's normal place of abode in the event of a natural person, or registered offices or head office in the event of bodies corporate, are located in Spain. It will also apply where the contract is mandatory pursuant to Spanish legislation. Parties to insurance contracts covering large risks will be free to choose the law applicable thereto.

– *Ley 20/2015, de 14 de julio, de ordenación, supervisión y solvencia de las entidades aseguradoras y reaseguradoras* –LOSSEAR– (Arrangement, Supervision and Solvency of Insurance and Reinsurance Companies Act), which governs the insurance practice in Spain. This law is mainly applicable to Spanish insurers. For regulatory purposes, foreign insurers in FoS must comply principally with their national law.

One of the most prominent aspects of this Spanish regulation is that it performs in detail the obligation to inform policyholders, which is applicable to both life and non-life insurance contracts (more detailed information must be provided in the case of Life Insurance. An additional distinction is drawn between individual and collective Life Insurance). In this regard, the provisions in effect require companies to inform their customers of the various types of internal and external actions that may be taken in the event of a claim.

– *Real Decreto 1060/2015, de 20 de noviembre, de ordenación, supervisión y solvencia de las entidades aseguradoras y reaseguradoras* –RDOSSEAR– (Arrangement, Supervision and Solvency of Insurance and Reinsurance Companies Development Regulation), which implements the rules of Arrangement, Supervision and Solvency of Insurance and Reinsurance Companies Act.

– *Ley 20/2005, de 14 de noviembre, de creación del Registro de Contratos de Seguros de cobertura de fallecimiento* (Registry of Insurance Policies Covering Death Risk Act). This Act institutes a public Registry in which all life and accident insurance contracts that include death coverage must be registered, unless otherwise stipulated in article 4.2 of this law.

This Act requires undertakings to notify this Registry of the existence of these kind of policies and some details included therein (data identifying the life assured, the insurer and the insurance contract) via Internet. The obligation to supply this information applies to both Spanish and non-Spanish insurance companies with registered offices in other European Economic Area countries conducting business in the life or accident classes in Spain under the right of establishment or freedom to provide services.

– *Ley 26/2006, de 17 de julio, de mediación de seguros y reaseguros privados* (Distribution of Private Insurance and Reinsurance Policies Act). Insurance intermediaries are regulated under this Insurance Distribution Act. According to this law, a broker is a different kind of intermediary than an agent. Insurance brokers must be fully independent of the insurer. Brokers' advice must

be facilitated on the basis of an objective analysis of a sufficiently large number of insurance contracts available on the market, to enable them to make a recommendation in accordance with professional criteria, regarding which insurance contract would be adequate to meet the client's needs. However, an agent must operate with only one insurer (with exceptions), and they need not to give independent advice.

An insurance company which appoints an insurance agent is liable for the actions of the agent in selling the insurance. On account of this fact, some insurers only operate through brokers.

The Distribution of the Private Insurance and Reinsurance Policies Act has devoted its first part to the intermediaries' general rules, including prohibitions and obligations:

Prohibitions:

- To carry out the activity related to variable premium mutual insurance companies and variable premium cooperatives;
- To assume directly or indirectly the risk covered;
- To realize the activity in favour of companies which do not meet the legal requirements for acting in Spain or which transgress the granted authorization;
- To impose directly or indirectly the insurance contract's execution;
- To add an extra charge on the premium receipt issued by the insurance company;

1. INSURANCE REGULATIONS

- To sign a contract in the name of the client without his consent.

Obligations (including, but not limited to, the following):

- To offer truthful and sufficient information about the insurance contract (promotion, offer and subscription);
- To be the depository of all the amounts received from their client;
- To mention in all commercial documents their inscription register number and their identification name;
- Before beginning activity, the intermediary must be registered in the special administrative register of the Bureau of Insurance;
- The bank-insurance operators should inform the client that the advice they provide is intended for dealing with an insurance contract and no other financial instrument;
- Brokers (whether natural or legal persons), intermediaries' branches and EEA intermediaries who act in Spain in FoS, should deal with and resolve the client claims related to their interests and rights;
- Brokers (natural or legal persons) and intermediaries resident in other EEA Member States who act in Spain in FoE (freedom of establishment) should have a Client Attention Service Department (having full independence to guarantee autonomy

in order to avoid conflicts of interest) to deal with and to solve their customer claims.

– *Real Decreto Legislativo 7/2004, de 29 de octubre, que aprueba el texto refundido del Estatuto Legal del Consorcio de Compensación de Seguros*, (Compensation Pool Act). The Spanish Insurance Compensation Consortium (hereinafter referred as the «Compensation Pool»), is a public corporate entity attached to the Ministry of Economy, Industry and Competitiveness and is responsible (among other tasks) for indemnifying extraordinary risks for insured persons who have paid the corresponding surcharges. The Compensation Pool satisfies the indemnity unless the insured has underwritten a special policy covering it (although this is not a common situation, as the insured will be indemnified if it has paid the surcharges due) and the insurer is able to pay the indemnity. The Compensation Pool is a compensation scheme for damages caused by extraordinary events (severe floods, gales and hailstorms, earthquakes, etc.). It is characteristic of the Spanish system to define the catastrophic risks that are covered taking into consideration the enormous potential loss that could be generated, but without conditioning the protection if there are occurrences that affect a great number of insured people or a wide expanse of territory, nor in the case of substantial damages that could lead to the event described as «catastrophic». It is possible that the event might only affect a sole insured party, who would have full rights to being indemnified but who, on the other hand, would not require the public authorities to issue an official declaration that there has been a «catastrophe» or that

there is a «catastrophic area». The cover is automatic once one of the covered events has occurred. The Compensation Pool forms part of the Ministry of Economy, Industry and Competitiveness and is a public entity inspired on the principle of compensation whose aim is to cover these extraordinary risks. For financing this body, the law lays down the surcharge on the extraordinary risks insurance, personal damage (life and accidents), property (direct material damage) and loss of profits.

Other important Spanish laws for the insurance industry are:

- *Real Decreto 1/2007, 16 de noviembre, que aprueba el texto refundido de la Ley General para la defensa de los consumidores y usuarios* (Defence of Consumers and Users Act).

- *Ley 13/1996, 30 de diciembre, de Medidas Fiscales, Administrativas y del Orden Social* (Tax, Administrative, Labour and Social Security measures Act). Insurance premiums are levied at 6% (the Insurance Premium Tax). However, this tax will be exempt, according to article 12 of this Act, in the following insurance operations: compulsory social insurance and collective insurance as an alternative to pensions plans; Life Insurance as stated under Title II of Insurance Contract Act; capitalization based on actuarial techniques; reinsurance policies; bail insurance; export credit insurance and combined agrarian insurance; international transport of merchandise or passengers; insurance relating to ships and airplanes used for international transport; health insurance and insurance pension scheme.

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Information requirements before and after the conclusion of the contract

The minimum content of insurance policies is established by article 8 of the Insurance Contract Act:

- Name and surname or corporate name of the contracting parties and their addresses, as well as the designation of the insured and of the beneficiary, when applicable.
- The concept in which it is insured.
- Nature of the risk covered, describing in a clear, understandable way, and with a highlighted typography, the guarantees and covers granted in the contract, as well as the exclusions and limitations that affect each one of them.
- Designation of the insured objects and their location.
- Insured sum or scope of coverage.
- Premium amount, surcharges and taxes.
- Maturity of the premiums, place and form of payment.
- Duration of the contract, stating the day and time when it effectively starts and terminates.

- Name and type of insurance mediator, if intervening in the contract.

In addition, article 122 RDOSEAR sets out the information that the insurer in general must provide the policyholder with, in writing, before underwriting the policy:

- Applicable legislation.
- Internal or external claim proceedings.
- The country where the insurance company or the branch has its registered office and its corresponding address.

In relation to Life Insurance, article 124 RDOSEAR sets out the information that the insurer must provide to the policyholder before underwriting the policy. This information is known as *Nota Informativa* –Information Note– and must contain at least the following (when applicable):

- Definition of guarantees and options offered.
- Duration of the contract.
- Conditions for termination.
- Conditions, terms and maturities of the premiums. Insurance in which the policyholder assumes the investment risk will specify the amount, basis of calculation and timing of all the charges applicable to the operation.
- Method of calculation and allocation of shares in profits.

2. INFORMATION REQUIREMENTS BEFORE AND AFTER THE CONCLUSION...

- Indication of surrender and reduction values and nature of the relevant covers; if the latter could not be set out in a precise way upon underwriting, indication of the calculation method as well as the minimum values.
- Premiums for each benefit, both main benefits and supplementary benefits, where appropriate.
- For contracts with variable capital, definition of accounting units to which the benefits are linked and indication of the assets.
- Modalities and deadline to exercise the right of termination and, where appropriate, the necessary formalities to exercise the unilateral power of cancellation referred to in article 83(a) of the Insurance Contract Act 50/1980, of 8 October.
- General information on the applicable tax system.
- Specific information in order to properly understand the contract's underlying risks, borne by the policyholder.

On an annual basis, the life insurance policyholder must receive information on the status of their participation in profits, as well as any modifications that occur in the information provided at the time of signing the contract.

Similarly, the purpose of article 96 LOSSEAR is to guarantee a more transparent and effective regulation in the insurance market and to provide protection for the insurance consumer. With the exception of life products where the power to modify investments allocated to the policy is granted to the policyholder, life insurers

must give information about the expected profitability of each policy, according to «Ley ECC/2329/2014, 12 de diciembre. This Rule governs the compulsory calculation and communication of the expected profitability of life insurance policies. Such obligation is not applicable to those life insurance types in which the policyholder assumes the investment risk (article 3).

Besides, «Ley ECC/2316/2015, de 4 de noviembre, relativa a las obligaciones de información y clasificación de productos financieros—» has to be taken into account. This rule obliges insurers to provide their customers or potential customers with a risk indicator and, eventually, liquidity and complexity alerts. Once more, this obligation is not applicable to those life insurance types in which the policyholder assumes the investment risk.

In unit linked life insurance contracts, additionally, the policyholder must be informed prior to signing the contract that the amount due to be received will depend on financial market fluctuations beyond the control of the insurer and that the historical results are not indicators of future results.

In relation to non-Life Insurances, it is necessary to point out that:

- Article 123.2 of RDOSEAR stipulates that motor vehicle liability (excluding transporter liability) insurance contracts concluded under freedom to provide services must include the name of the representative for automobile insurance, referred to in article 58.1(a) LOSSEAR.

2. INFORMATION REQUIREMENTS BEFORE AND AFTER THE CONCLUSION...

- For legal expenses insurance, article 76(f) of the Insurance Contract Act provides that the policy must explicitly list the rights granted to the insured under articles 76(d) and 76(e) of that Act: namely, their right to freely choose their attorney and barrister for their representation and defense in whatsoever manner of proceedings and in particular in the event of conflicting interests between the parties of the contract.

Cancellation/cool off period (Life Insurance)

Referring to the length of the cancellation/cool off period (Life Insurance) and what must be repaid to the policyholder in such a case, it is necessary to take into account article 83(a) of the Insurance Contract Act. According to this article, the policyholder in an individual insurance contract for a period exceeding six months who has stipulated the contract on the life of their own or a third party has the unilateral power to terminate the contract without giving any reason and without penalties within 30 days from the date on which the insurer delivered the policy or certificate of provisional coverage. An exception to this unilateral right of termination of an insurance contract applies when the policyholder bears the investment risk, as well as contracts which their covered return is a function of the fluctuations of the investments assigned to them.

In Spain, when the policyholder exercises his right to cancel the policy within this cool off period, the insurance company must refund the entire premium paid, with no charges deducted.

Date of birth incorrectly stated

Should the insured's date of birth be incorrectly stated, the insurer can only contest the contract if their real age at the time when the contract comes into force is outside the established admissible limits. If their age should not be outside the admissible limits but the insurance company has collected premiums that are lower than they should have been, it shall reduce the benefit payment in proportion to the premium collected. By contrast, if the premiums collected are greater than those which should have been paid, the insurer shall return to the policyholder the part of the premium which has been overcharged without interest.

A special request referred to health-care insurance

Finally, entering a health-care insurance contract, in any of its coverage forms, the insurance company shall inform the policyholder in writing about the applicable criteria for the renewal of the policy and the updating of premiums in successive periods, under the terms legally established.

Limiting clauses, language and payment of premium

The information must be disclosed in a particular or prescribed format only in the case of clauses limiting the rights of the insured/policyholder, which must be highlighted in the policy and expressly accepted and signed by the policyholder. This is one of the most important and controversial issues in Spanish Insurance Law, because under Spanish legislation there is not a clear and exact definition of what a *limitative clause* is.

The language of the insurance contract must be redacted at the discretion of the policyholder, according to article 8 of the Insurance Contract Act, in any of the official Spanish languages in the Spanish region where it is formalized. At the policyholder's request, it must be written in another language, in accordance with annex III of the Directive 2002/83 of the Council of the European Union, 5 November 2002.

In practice, even companies which sell thousands of policies in Spain do not have their contracts of insurance in all five of Spain's official languages. If a policyholder asks for a contract of insurance written in any other four official languages, the insurance company will usually

provide him/her with in a PDF document version in the proposed language.

Some companies issue insurance documents both in Spanish and English simultaneously. In case of conflict, the Spanish version will prevail.

In Life Insurances, where a policyholder is in arrears with the payment of their premium, according to article 95 of the Insurance Contract Act, it would not apply the paragraph two of article 15 on non-payment of premium (terminated without any value). The non-payment of the premium will produce, if applies (considering the kind of policy) reduction of the life policy, in agreement with the table of values inserted into the policy. So, non-payment of premium (i.e. policyholder is in arrears with the payment of their premium) does not necessarily result in contract cancellation. The non-payment of the premium will reduce the amount payable by the insurer. The policyholder is entitled to the rehabilitation of the policy, at any time before the death of the insured, in accordance with the conditions set out in the policy.

Information requirements for distance marketing

Law 22/2007 of 11 July on Distance Marketing of Financial Services to Consumers Act governs, among other subjects, insurance contracts subscribed through digital or telephone forms.

Article 4.3 defines distance contracts as those negotiated and concluded using exclusively distance communication technology, without the simultaneous physical presence of the supplier and the consumer, involving the use of digital devices, electronics, telephone, fax or other similar.

Articles 7 to 9 list the information requirements prior to the contract establishing that the insurer, in good time and before he/she undertakes any obligation arising from the offer or the distance contract, must provide the policyholder with at least the information detailed below (in addition to the information to be included in the previous *Informative Note* –article 96 of LOSSEAR and articles 122 and 126 of RDOSSEAR– and the minimum content of the policy described in article 8 of the Insurance Contract Act):

1. As the provider itself:

- a) Its identity and main activity, its geographical address at which it is established and any other geographical address relevant for the policyholder;
- b) When a representative of the insurer established in the European Economic Area State of residence of the policyholder, the identity of the legal representative, the quality with which it acts, geographical address, telephone, fax and, where appropriate, email address to which it can contact the policyholder for its relations with the representative, as well as the complete identity of the insurer;
- c) If the policyholder is to deal with any professional other than the insurer, such as representatives or intermediaries, the identity of this professional, the capacity in which it is acting with respect to the policyholder and the geographical address relevant for the policyholder in relations with the professional;
- d) When the insurer is registered in a public register, the register in which it is entered and its registration number, or equivalent means of identification in that register;
- e) If the insurer or its activity is subject to an authorization scheme, the particulars of the relevant supervisory authority.

2. In relation to the financial service (insurance):

4. INFORMATION REQUIREMENTS DISTANCE MARKETING

- a) A description of the main characteristics of the insurance, pursuant to the terms determined by this regulation;
- b) The total price to be paid by the policyholder to the insurer for the insurance including all fees, charges and expenses, and all taxes paid via the insurer or, when it cannot be indicated an exact price, based on calculation allow the policyholder to check prices;
- c) Where appropriate, a warning indicating that the insurance is related to instruments involving special risks, such as little or no liquidity, the possibility that the deposited funds are not fully reimbursed and that the fare increases significantly, whether derived from its specific characteristics or of the operations to be executed or whose price depends on fluctuations beyond the control of the insurer financial markets, and whose historical results are not indicative of future results;
- d) Indication that there may be other taxes or costs not paid via the insurer or not bill itself;
- e) Any limitation on the period during which the information provided is valid;
- f) Payment arrangements and execution;
- g) Any specific additional cost for the policyholder of using the technique of distance communication, if such additional cost is charged;

3. As for the distance contract:

- a) The existence of a right of withdrawal in accordance with article 10 of this Act and, if any such law, its duration and the conditions for exercising it, including information on the amount which the policyholder may have to pay under article 11, and as the consequences of the non-exercise of this right and the loss when, before exercising this right, the contract is performed in full by both parties upon express request of the consumer;
- b) Practical instructions for exercising the right of withdrawal indicating, inter alia, the postal or email address to which the notification of withdrawal should be sent to;
- c) The minimum contract duration;
- d) Information on any rights, other than that referred to in point a), that the parties may have to terminate the contract early or unilaterally by virtue of the terms of the contract, including any penalties included in the contract in this case;
- e) European Economic Area State legislation in which the insurer is based to establish relations with the policyholder prior to the conclusion of the contract;
- f) Contractual clauses, if any, on the law applicable to the distance contract and the jurisdiction to hear the matter;
- g) The language or languages in which the contractual terms and previous information are presented, and the language or languages in which the contract may be executed and

implemented benefits derived therefrom, according to the policyholder.

4. In regards to means of claim and compensation:
 - a) Systems of dispute resolution, public or private, the policyholder can access and how to access them;
 - b) Existence of guarantee funds or other compensation arrangements, whether mandatory or voluntary.

All this information shall be provided clearly indicating its commercial purpose and communicated in a clear and comprehensible manner in any way appropriate to the means of distance communication used, with due respect in particular for the principles of good faith in commercial transactions and the principles governing the protection of persons lacking capacity to act and the rights regarding universal accessibility for people with disabilities

The insurer shall communicate to the policyholder all the contractual terms, as well as the information mentioned above, on paper or another durable medium available to the policyholder in time for the possible conclusion of the distance contract or acceptance of an offer and in any case before the policyholder is bound by any contract the remote or offer.

At any time during the contractual relationship, the policyholder is entitled, upon request, to obtain the contractual conditions on paper. In addition, the policyholder is entitled to change the technique or techniques of distance communication used, unless this

is incompatible with the contract concluded or the nature of the financial service (insurance).

Failure to meet the requirements for prior information resulting from the contracts as well as those relating to prior communication of such information may result in the nullity of contracts, in accordance with the provisions of the Spanish legislation.

Right of withdrawal (principally, referred to non-life insurance) is set in article 10 in the terms explained below:

The policyholder shall have a period of fourteen calendar days to withdraw from the distance contract, without giving any reason and without penalty.

The deadline for exercising the right of withdrawal shall run from the date of the contract. However, if the policyholder has not received the contractual terms and contractual information, the term for exercising the right of withdrawal will start counting the day of receipt of such information.

The policyholder who exercises the right of withdrawal shall notify to the insurer in the terms established in the contract.

In the event that the distance contract on which the right of withdrawal has been exercised has been paired another distance contract for financial services provided by the same insurer or a third party, in agreement with the supplier, this additional distance contract will be also terminated without penalty.

The policyholder who exercises the right of withdrawal will only be required to pay, at the earliest, for the service

actually provided by the supplier in accordance with the contract, until the time of withdrawal.

Finally, it is important to emphasize that article 17 sets that it will be the insurer's burden of proof of compliance with the obligations incumbent under this Act relating to policyholder information and the consumer's consent to conclude the contract and, where appropriate, for execution.

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez

Nomination of person/s to benefit from a policy and dormant policies (Life Insurance)

The assignment of the policy's beneficiaries shall be done in the policy contract, in a future notification to the insurer in writing or in the will. Unless the policyholder has abdicated, in writing, the faculty to change the policy's beneficiary, he/she shall change it as many times as he/she wants in any of the manners described above.

In the event that the insured dies before the assignment of beneficiaries, the compensation would increase the policyholder's estate. If the assignation was made in favour of many beneficiaries, the compensation would be divided according to the rules indicated, or otherwise equally (articles 84 to 87 of the Insurance Contract Act).

The benefits or proceeds of any life insurance policies can be transferred, by the policyholder (the assignor), to a lender (the assignee) as a collateral for a loan, only in the event that the policy's beneficiary was not assigned as an irrevocable beneficiary. The transfer implies the revocation of the assignation of the policy's beneficiary. In the event of the death of the assignor, the assignee is paid. The

transfer of the policy must be notified to the insurer in writing (article 99 of the Insurance Contract Act).

If a policyholder wants to nominate a person as a beneficiary of the policy, the policyholder does not need to obtain that person's written permission to be a beneficiary. The nomination can be made without the beneficiary's knowledge.

The beneficiary, in case of death, does not have any rights in the policy during its term. Any rights only crystallise on the death of the life assured.

The latter bequest of the beneficiary revokes the earlier nomination when it is put in writing. The policyholder can revoke the beneficiary without his/her permission as long as it is not an irrevocable beneficiary (a very usual scenario in life policies linked to mortgages, where the beneficiary is the bank). Article 87 of the Insurance Contract Act, which rules on the policyholder's rights, establishes that «the policyholder can revoke the beneficiary at any time, except under the condition that the policyholder has renounced expressly and in writing this power».

The policyholder can assign a beneficiary to the policy and modify the beneficiary designation without the consent of the insurer, with a subsequent written declaration sent to the insurer or set out in a last will and testament.

If, at the time of death of the life insured, there is no tangible designated beneficiary nor any rules by which to determine this, the capital will be considered part of the policyholder's assets.

In the event of the generic designation of children of a person as beneficiaries, all descendants with the right to inherit will be considered as children.

Should the designation be in favour of the heirs with no further specification, all those meeting this condition with respect to the policyholder at the time of the death of the life insured shall be considered as such.

The designation of a spouse as beneficiary shall assign this condition to the party who is indeed the spouse at the time of the death of the life insured.

Beneficiaries who are heirs shall retain this condition even if they renounce the inheritance.

If the designation is in favour of various beneficiaries, the provision agreed will be distributed, without prejudice to any specific clause to the contrary, in equal parts. When in favour of heirs, distribution will take place proportionally to the inheritance share, unless specified to the contrary. Any part not acquired by a beneficiary will go towards increasing that of the others.

When a policyholder wants to transfer his/her legal ownership of the policy to a third party (for example, a security for a loan), according to article 99 of Insurance Contract Act, the legal requirements are:

- It is necessary that there is not an irrevocable beneficiary.
- The policyholder must inform the insurer about the transfer of his/her legal ownership in the policy to a third party.

For the payment of the covered benefit in the case of death, the beneficiary will have to give due proof of identity and of their right or status as beneficiary. In addition, the insurers in Spain usually ask for the following documentation:

1. Death certificate of the insured.
2. Certificate from the doctor who attended the insured, stating the cause, evolution and nature of the illness or accident which caused the death of the insured or, where appropriate, statements from judicial inquiries or documents which certify death by accident.
3. Certificate from the Register of Wills, a copy of the Last Will or Notarial Declaration of Heirs Certificate or Court Record of Declaration of Heirs, as appropriate.
4. Self-assessment payment of inheritance or gift tax (or obtaining a certificate from the Tax Authorities stating that they are exempt of this payment).

Obviously, policyholder and life assured may be not the same person, i.e.:

- Policyholder, the wife; life assured, the husband; and beneficiaries, the children.
- Policyholder, the employer; life assured and beneficiary, the employee.

Article 7 of Insurance Contract Act establishes that:
If the policyholder and the insured person are different people, the obligations and duties deriving from the contract are to be fulfilled by the policyholder, unless such obligations and duties which, on account of their nature, must be fulfilled

by the insured person. Nevertheless, the insurer shall not refuse the insured person's fulfilment of the policyholder's obligations and duties. The rights deriving from the contract shall be granted to the insured person or, if applicable, the beneficiary, except the policyholder's special rights in relation to Life Insurance.

Therefore, the insured person could pay the premium of the policy on behalf of the policyholder in case of a recurrent premium life policy.

In case that the policyholder (different to the life assured) dies, in our opinion, the policy cannot be surrendered by anyone. The death benefit will be paid to the beneficiary /ies after the death of the life assured. This is a way to protect the rights of the beneficiary /ies.

Dormant policies

There is no specific regulation on the event that the policy remained unclaimed. The legal action to claim the benefit prescribes after five years since there is a right to claim –that is, since the incident– so the compensation shall be integrated in the equity of the insurer (article 23 of the Private Insurance Act).

The Registry of Insurance Policies Covering Death Risk (Ministry of Justice) was introduced in Spain by Act 20/2005. The objective of this Law is to record insured persons with a policy providing death coverage and to ensure that beneficiaries (at the moment of the insured person's death) may find out about all the policies signed in their favour. The Registry receives information from insurers on the policies covering death and makes this

accessible to the parties concerned in the event of the death of the life insured, by means of a certificate issued by the Registry, similar to the one of the «last will and testament». It is mandatory for the insurance company to update the Registry on a weekly basis, even if the insurance company does not have newly insured people that week.

Segundo Ruiz Rodríguez

Some other recent amendments regarding Insurance Contract Act

After the enactment of LOSSEAR, whose main objective is to protect the rights belonging to policyholders, insured persons and beneficiaries, as well as promoting transparency and correct development of the insurance activity, there has been a number of amendments that must be considered on account of their effects on insurance contracts.

Duration and extension of the contract

The new article 22 of Insurance Contract states:

- «1. The duration of the contract shall be established in the policy, and the period shall not exceed ten years. Nonetheless, it may be established that it shall be extended once or several times for a period that shall not exceed one year each time.
2. Parties may oppose the extension of the contract through a written notification to the other party at least, one month prior to the conclusion of the ongoing insurance contract when the opposing party is the policyholder, and two months when the opposing party is the insured person.

3. The insurer must notify the policyholder of any modifications to the insurance contract at least two months prior the conclusion of the ongoing period.
4. The terms and conditions of the opposition to the extension of the policy by each party, or when this opposition is not possible, must be highlighted in the policy.
5. The provisions above shall not apply in case it is incompatible with the life insurance regulation».

Greater transparency

In order to provide a greater transparency, article 8.3 of Insurance Contract Act is worded as follows: «The contract policy (...) shall include at least the following data (...) 3. Nature of the covered risk, describing, in a clear, comprehensible manner, the benefits and coverages included in the contract, as well as the exclusions and limitations that affect each one of them, typographically visible and in a highlighted way.»

Change on the circumstances regarding the insured person's health condition

No obligation to notify any change on the circumstances regarding the insured person's health condition. Article 11 of Insurance Contract Act is worded as follows:

- «1. During the period of the contract the policyholder or the insured person must notify the insurer, as soon as possible, of any alteration of the factors and circumstances stated in the questionnaire referred to in the previous article that increase the risk and are of

such nature that, had they been known by the insurer in the moment of the perfection of the contract, the insurer would not have entered the contract, or would have entered the contract under more burdensome conditions.

2. In personal insurances the policyholder or the insured person has no obligation to notify the change in the circumstances regarding the insured person's health condition, which shall not in any way be considered as an aggravation of the risk».

Segundo Ruiz Rodríguez

Spanish life insurance taxation

A. PERSONAL INCOME TAX AND WITHHOLDINGS

We have principally to take into account Spanish Personal Income Tax Act (35/2006, of 28 November) the income obtained will only be taxed when the provision is collected upon termination of the contract or surrender of the policy. This return on investment will be calculated as the difference between the capital received and the amount of premiums paid. Classification as return on investment results in it being subject to the general obligation of withholding tax or advanced taxation, at the rate of 19% (24% non EU or EEA residents) at the time of collection. In any case, we have to distinguish between withholdings (insurer's obligation) and the income tax (obligation of the policyholder). The withholdings are always on the gain. This amount must be withheld by the insurance company. The policyholder must declare these gains on their Personal Income Tax return as capital gains.

Such withholdings are a payment on account of the income tax of the policyholder/insured person, who shall discount them from his/her income tax return. Obviously, they can deduct the withholdings previously paid by the

insurance company on their behalf to the Tax Authorities by the insurer.

The current tax rates for capital gains (income tax) are as follows:

| <i>GAINS / TAX BASE</i> | <i>RATE</i> |
|---|-------------|
| Income up to 6,000 € | 19% |
| Income from 6,000 € to 50,000 € | 21% |
| Income in excess of 50,000 € | 23% |

Nevertheless, it must be taken into account that not all gains coming from insurance products are considered capital gains. For example, life insurance contracts which arrange for pension contributions to be paid by companies on behalf of their employees are classified as income from employment, with a different tax treatment.

Should the insurance contract be classified as a life or temporary annuity, before applying the current 19% withholding rate, a fixed reduction percentage must be applied to each annuity received, which will vary depending on the age of beneficiary at the time the income is constituted (if it is a lifetime annuity) or the duration of the income (if it is temporary):

Life annuity percentages

- 40% where the annuitant is less than 40 years.
- 35% where the annuitant is between 40 and 49 years.
- 28% where the annuitant is between 50 and 59 years.

- 24% where the annuitant is between 60 and 65 years.
- 20% where the annuitant is between 66 and 69 years.
- 8% when the annuitant has more than 70 years.

Temporary annuity percentages

- 12% where the temporary income' duration is less than or equal to 5 years.
- 16% where temporary income is longer than 5 and less than or equal to 10 years.
- 20% where temporary income last more than 10 and less than or equal to 15 years.
- 25% where temporary income last more than 15 years.

If the life annuity is constituted on the life of two people (joint life policies), the age of the youngest annuity holder will be considered, at the time the provision is constituted, as the age of the receiver.

The insurer must provide the policyholder on an annual basis with a certificate informing about, when applicable, the gains, the amounts withheld and the losses. This certificate has to be sent to the policyholder before the income tax return campaign starts.

B. INHERITANCE AND GIFT TAX

The inheritance and gift tax is a complex tax in Spain. In some regions it is practically exempt when the beneficiaries are the children or the spouse. In any case, inheritance tax is an obligation of the beneficiaries.

Insurers only need the beneficiary to provide them the «*liquidación*» –liquidation– (return duly signed by the Spanish Tax Authorities) of the inheritance/gift tax. This must be done because the insurance company and the beneficiary are jointly responsible for this payment before the Spanish Authorities. The insurer can inform the policyholder that it is possible to pay this tax in several instalments.

Anyone who inherits or receives a gift, that includes assets or rights in Spain, is liable to pay Spanish inheritance and gift tax (IHGT), regardless if they are resident or non-resident in Spain.

- Residents are liable for IHGT under *personal obligation* (taxpayer's fiscal residency is in Spain). Spanish resident heirs, beneficiaries and donees pay for every asset they received wherever they are (located in Spain or abroad).
- Non-residents are liable for IHGT under *real obligation* (only for location of assets or rights bequeathed/inherited/donated in Spain).

Applicable law

In general, both the state law and the regional law (in Spain) where the deceased (inheritance) / donee (gift) had his/her residence over the previous five years or where the majority of the assets are located. Therefore, both state law and regional laws apply in tandem.

Payment deadline

Inheritance tax: the beneficiary has to pay within six months since the death of the insured person, a one-time

extension may be requested, within the first five months, for a further six months.

Gift tax: on the following 30 working days since the day after the donation has been made.

Categories for tax purposes:

Donees (gift tax) and inheritors are grouped into four categories for tax purposes. Depending on the relationship with the deceased or donor, allowances are conceded. As a general rule, the closer the kinship, the more generous the allowance.

- Group I: natural and adopted children under 21.
- Group II: natural and adopted children over 21, spouse, parents, adoptive parents, grandparents and great-grandparents.
- Group III: relatives in second and third degree: in-laws, brothers / sisters (siblings), nephews / nieces, aunts and uncles.
- Group IV: relatives in fourth degree, or without any relationship: a friend, common law partners.

Due to a legal change in 2015, brought about by an ECJ's landmark ruling (the judgment of the Court of Justice of the European Union of 3 September 2014 C-127/12), non-Spanish residents who are UE or EEA residents will be taxed by the Spanish Autonomous Community (AC) tax rate of the region (AC) where the higher value property inherited/donated is located.

INHERITANCE: DECEASED NON-RESIDENT IN SPAIN, BUT RESIDENT IN THE EU OR EEA

| <u>HEIR NON-RESIDENT IN SPAIN</u> | | <u>HEIR RESIDENT IN SPAIN</u> |
|-----------------------------------|---|---|
| ASSETS IN SPAIN | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State), but only for the value of the assets located in Spain. • Possibility of paying according to the tax regulation of the autonomous region in which the majority of the value of these assets is. | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State) for the value of all the assets of the inheritance, no matter the countries where the assets are located. (Personal Obligation). • Possibility of paying according to the tax regulation of the autonomous region in which there is the majority of the value of the assets located in Spain. If there are no assets in Spain, but the heir inherits assets in other countries: possibility to apply autonomous tax law of the autonomous region where the heir lives. • The heir can make tax deduction for the tax paid abroad for assets non-located in Spain. (double taxation). |
| ASSETS OUT OF SPAIN | No obligation to pay in Spain | |

INHERITANCE: DECEASED NON-RESIDENT EITHER IN SPAIN OR IN THE EU OR EEA

| <i>HEIR NON-RESIDENT IN SPAIN</i> | | <i>HEIR RESIDENT IN SPAIN</i> |
|-----------------------------------|--|--|
| ASSETS IN SPAIN | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State), but only for the value of the assets which are located in Spain (Real Obligation). | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State) for the value of all the assets of the inheritance, no matter the countries where the assets are located. • The heir can make tax deduction for the tax paid abroad for assets non located in Spain (double taxation). |
| ASSETS OUT OF SPAIN | No obligation to pay in Spain | |

INHERITANCE: DECEASED RESIDENT IN SPAIN

| <i>HEIR NON-RESIDENT IN SPAIN</i> | | <i>HEIR RESIDENT IN SPAIN</i> |
|-----------------------------------|---|---|
| ASSETS IN SPAIN | <ul style="list-style-type: none"> • If the heir lives in the EU or EEA: possibility of paying according to the tax regulation of the autonomous region where the deceased lived for the last 5 years. • Obligation to pay in Spain (Central State), but only for the value of the assets located in Spain. | <ul style="list-style-type: none"> • Obligation to pay in Spain (autonomous region tax regulation) in the autonomous region where the deceased lived for the last 5 years. • Obligation to pay for the value of all the assets of the inheritance, no matter the countries where the assets are located. (Personal Obligation). • The heir can make tax deduction for the tax paid abroad for assets non-located in Spain (double taxation). |
| ASSETS OUT OF SPAIN | No obligation to pay in Spain | |

DONATIONS: DONOR RESIDENT OR NON-RESIDENT IN SPAIN

| <i>BENEFICIARY NON-RESIDENT IN SPAIN</i> | | <i>BENEFICIARY RESIDENT IN SPAIN</i> |
|--|---|--|
| REAL STATE IN SPAIN | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State), but only for the value of the Real State located in Spain. • If the beneficiary lives in the EU or EEA: possibility of paying according to the tax regulation of the autonomous region where the Real State is located. | <ul style="list-style-type: none"> • Obligation to pay in Spain (autonomous region tax regulation) in the autonomous region where the Real State is located. |
| MOVABLE ASSETS IN SPAIN | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State), but only for the value of the movable assets located in Spain. • If the beneficiary lives in the EU or EEA: possibility of paying according to the tax regulation of the autonomous region where the movable assets have been the majority of the time within the previous 5 years | <ul style="list-style-type: none"> • Obligation to pay in Spain (autonomous region tax regulation) in the autonomous region where the beneficiary lives. • If the assets come from abroad, the heir can make tax deduction for the tax paid abroad for assets non located in Spain (double taxation) |

| BENEFICIARY NON-RESIDENT IN SPAIN | | BENEFICIARY RESIDENT IN SPAIN |
|--|-----------------------------------|---|
| REAL STATE OR MOVABLE ASSETS OUT OF SPAIN | No obligation to pay in Spain. | <ul style="list-style-type: none"> • Obligation to pay in Spain (Central State) if the Real State is abroad. • If the Real State is in the EU or EEA: possibility of paying according to the tax regulation of the autonomous region where the beneficiary lives. • The heir can make tax deduction for the tax paid abroad for assets non-located in Spain (double taxation). |
| | | |

C. WEALTH TAX

Wealth tax is an annual tax, payable on the total value of the taxpayer's taxable assets/rights as of 31 December of each year.

If the taxpayer is a resident in Spain, he/she is liable to the tax on his/her worldwide assets.

If he/she is not non-resident in Spain it will be subject in relation to those assets/rights located in Spain.

Applicable law

Spanish wealth tax is managed by the Autonomous Regions, which may either apply the national legislation

or pass their own laws on the following issues: tax-free allowance, deductions and tax rebates and levied tax rate.

Wealth tax has tax-free allowance like:

- For habitual/main residence has been lifted to 300,000 euros.
- For individuals with the obligation to contribute, the minimum exempt limit has been increased to 700,000 euros.

Tax rate

Following the national law, the maximum rate is 2.5% on the tax base. Wealth tax follows a progressive scale, which increases the rate according to the increase in the taxable base, (the larger wealth tax taxable base, the more the individual is taxed), with a cap set at 2.5% for a taxable base in excess of 10.7M.

Wealth tax legislation is devolved to the Autonomous Regions, who can either use the national law, or pass their own laws on the following:

1. Tax-free allowances.
2. Deductions and tax rebates.
3. Levied tax rate.

Some regions, like Catalonia, Valencia, The Balearics, and Andalucia, have passed their own laws. Others just use the national law. Now that wealth tax has been re-introduced (September 2011), some regions are expected to review their laws.

Residents are subject to the laws of the Autonomous Region where they live. Non-residents are always subject

to the national law, regardless of where the assets or rights they own are located.

Concerning life insurers, it should be noted that the surrender capitalization value of the life policies is considered «wealth» by this law. Therefore, the policyholders must be informed by means of a certificate as to the cash value of each policy on 31 December of each year. In the case of annuities, the policyholder has to be informed about the capitalization value on the same date.

The certificate should be provided to the policyholder before the Income Tax campaign starts. There is no annual investment return tax or similar tax on investment gains within a qualifying policy if there is no surrender, with the exception of wealth tax return.

The only tax payable on the value of the policy is the wealth tax. Personal income tax is applied on gains, not on the value.

The individual policyholders are responsible for the submission/payment of their own tax and the insurance company has no obligation to calculate or deduct the tax, only to inform them about the surrender/capitalization value each year.

D. SPECIAL TAX TREATMENT FOR THE BASQUE COUNTRY AND NAVARRE

The insurer has to distinguish (in the monthly reports) those policies with policyholders with tax residence in the provinces of Navarre, Biscay, Alava and Guipuzcoa. To make an easy identification of the

province of residence, the zip code should begin with 31 for Navarre, 48 for Biscay, 20 for Guipuzcoa and 01 for Alava.

E. OTHER TAXES OR SURCHARGES

There is a surcharge in favour of the Compensation Pool applicable to life insurance cover in contracts referring exclusively or primarily to death cover, including policies that also guarantee monetary indemnities for permanent or temporary disability.

| NAME | CONSORCIO SURCHARGE | FORM |
|--|-------------------------------|------|
| LIFE-Death coverage | R.E. Direct damage to persons | 10 |
| LIFE-Death is not the principal coverage | NOT SUBJECT | |
| LIFE with disablement or incapacity coverage | R.E. Direct damage to persons | 10 |
| For any reason | Liquidating activity | 50 |
| Independent or complementary to life | Liquidating activity | 50 |

The policyholder does not receive tax relief on premiums that they pay into the policy.

On a different matter, there is no tax or charge payable, for example, investment tax, on any growth in the value of the policy during the term of the policy as long as they are qualifying funds, in agreement with article 14 of the Spanish Personal Income Tax Act above mentioned and there is no surrender.

The insurance premium tax for insurances will be exempt, according to article 12 of the Act 13/1996, in the following insurance operations: compulsory social insurance and collective insurance as an alternative to pensions plans; Life Insurance as stated under Title II of Insurance Contract Act; capitalization based on actuarial techniques and reinsurances policies.

F. SOME PRACTICAL QUESTIONS AND THEIR ANSWERS

– *Inheritance and gift tax*

«What happens if there is no beneficiary in the case of death stated within the policy?»

According to the Spanish Law, in this case (no beneficiaries) the insured capital goes to the policyholder (or to his estate, if he is deceased. This estate will be divided later between their heirs). So, it would be taxed in the same manner as if the policy were totally surrendered. Therefore, it is not necessary to require a certificate from the Tax Authorities stating that inheritance tax does not need to be paid or a completed form (Liquidation) signed by the Spanish Tax Authorities confirming that inheritance tax has been paid. The insurance company does not pay the heirs, the payment goes to the policyholder.

– *Withholdings*

1. *«Our main business is annuities and I believe all the Spanish related business will be this. Given this, and that there is no surrender involved with such*

business, does that mean that the requirements upon us will be minimal? As I understand it, forms 128 and 188 will not apply, and form 10 will be a nil return».

Annuities are a special case. Forms 128 and 188 (withholdings) will apply but in a different way: depending on whether they are temporary or life annuities and depending on the age of the beneficiary (life annuities) and on the duration (temporary annuities), important reductions could be applied on the basis of contribution.

2. *«Could you please clarify the position in relation to beneficiaries who are non-residents? Do we apply the non-resident withholding tax or do we pay free of withholding tax (on the basis that the beneficiary tax is between him and his country of tax residence)? If a Spanish resident life assured dies (under a Spanish policy) and the beneficiary is a UK resident do we have to withhold tax at current 19%? If a UK Resident Life Assured dies (under a Spanish policy) and the beneficiary is a UK resident do we have to withhold tax at 19%?».* You do not have to withhold any amount. This is a «death case», therefore you have to take into account the inheritance tax (in which there are not any withholdings), not the Income Tax (with withholdings).

G. SPECIAL TAX TREATMENT FOR UNIT LINKED PRODUCTS

If the unit linked qualifies under the Spanish law, the policyholder would be taxed at the time he/she takes

withdrawals and/or the full surrender, by the difference between the amounts received from the insurance entity and the premium paid.

Should the unit linked not qualify under the Spanish law, a special rule for the imputation of income for Spanish tax purposes would apply. In this regard, the policyholder would be subject to the Spanish Personal Income Tax Act by the difference between the value of the policy at the beginning and at the end of the tax year.

It would qualify under the Spanish law, and would benefit from the deferral of income tax until a partial of total surrender had been done, providing the policy meets one of the following two conditions stated in article 14.2(h) of the Spanish Personal Income Tax Act:

1. Power to modify investments allocated to the policy is not granted to the policyholder.
2. The provisions of the policy must be invested in the following assets only:
 - Shares or units of collective investment institutions, predetermined in the contracts, provided they are collective investments adapted to the Spanish Law 35/2003, of 4 November or to the Council Directive 85/611/ECC, of 20 December, 1985.
 - Assets registered separately on the balance sheet of the insurance entity and complying with the following.
 - Assets must be suitable and diversified according to the Administration, Supervision

and Solvency of Private Insurance Act 20/2015, of 14 July.

- The policyholder must only be able to select among different separate classes of assets. They must not be involved in determining the underlying assets of that investment.
- All the above conditions must be fulfilled for the full duration of the contract.

It is also necessary to take into account that in Spain we use the FIFO –First In First Out– method regarding premiums (with the exception of annuities). It is the only method permitted by law. An example is shown below on how the FIFO method operates:

Total premiums paid: 5,000 euros.

Surrender value of policy year 5: 6,000 euros.

Partial surrender amount: 3,000 euros.

Since the partial surrender amount is 50% of the full surrender value, 50% of premium paid is allocated.

| | |
|--|-------------|
| Portion of premium surrendered (50% of 5,000 euros) | 2,500 euros |
| Amount received (50% of 6,000 euros) partial surrender value | 3,000 euros |
| Taxable amount (3,000 - 2,500 euros) | 500 euros |
| Withholdings 19% | 95 euros |

FIFO (First In First Out) method.

E.g. the client has paid the following premiums.

7. SPANISH LIFE INSURANCE TAXATION

| | | |
|---------------|--------|-------------|
| Premiums paid | Year 1 | 1,000 euros |
| | Year 2 | 1,000 euros |
| | Year 3 | 1,000 euros |
| | Year 4 | 1,000 euros |
| | Year 5 | 1,000 euros |
| | TOTAL | 5,000 euros |

The portion of premiums surrendered has to be the first premiums paid, i.e. Premiums paid year 1, 2, and 3; totaling 2,500 euros. So we end up with:

| | | |
|-----------------------------------|---------------|-------------|
| Premiums, after partial surrender | Year 1 | 0 |
| | Year 2 | 0 |
| | Year 3 | 500 euros |
| | Year 4 | 1,000 euros |
| | Year 5 | 1,000 euros |
| | TOTAL Premium | 2,500 euros |

In Spain, all the charges must be included in the concept of «*primas* » (premiums). That is why when we calculate the difference between the premiums paid and the amount received upon surrender by the policyholder, we only deduct the premiums from the surrender value. There is no fixed term required for a qualifying policy, in other words it can be issued on a whole-of-life basis.

In summary, as it has been explained, it would qualify under the Spanish law, and would benefit from the

deferral of income tax until a partial or total surrender had been made, providing the policy meets one of the two conditions stated in article 14.2(h) of the Spanish Personal Income Tax Act.

Annual charge reviews.

Reviews on charges are possible, provided that they were set and defined in the policy. The contract must include any rules on the review.

For instance, no additional disclosure or notification shall be needed if the policy states «*the policy charges shall be reviewed annually by 5% or the Spanish Consumer Price Index whichever is the higher*».

Nevertheless, if the policy does not include this kind of clause, a written acceptance by the policyholder shall be necessary. The same would apply if the content of the existing clause were changed.

H. TAX AND SURCHARGE REPORTING

The life insurer is obliged to calculate and withhold the amount of the Spanish tax withholdings on any partial or full surrenders (if there are any gains) and remit this amount to the Spanish Tax Authorities. The gain or loss on the proceeds of a life insurance policy as a result of a surrender in a particular tax year must be declared by the policyholder in their next personal income tax return. The current withholding tax rate that the insurer should apply to the gains made on all life insurance policies held by residents of Spain in the event of a withdrawal or full surrender is 19%.

In addition to that, insurers have statutory reporting requirements to the Compensation Pool –extraordinary risks– in relation to the surcharges which will be explained below.

The forms that the insurance companies are obligated to fill in are below (see a copy of each one in the Annexes of this book).

To the Tax Authorities

With respect to the Tax Authorities, the principal forms to fill in are:

- Monthly Form 128 (withholdings on the gains when a policy is partially or totally surrendered or when the policyholder receives «annuities»; or losses, when applicable). The information to be sent by the insurance company is the following:
 - Policyholder surname and name
 - NIE/NIF (tax identification number)
 - Home city or zip code
 - Tax base
 - Tax withheld.

This information is enough to prepare both Forms 128 and 188.

- Annual Form 188 (an annual summary of the Form 128): every year from the 1 to 31 January. This form is to inform the Spanish Tax Authorities about all the data of the policyholders who receive the gain.

Below there is an example of the information to be sent monthly for declaring the two forms stated previously.

| <i>Policyholder name</i> | <i>Policyholder residence town or zip code</i> | <i>NIF/NIE number</i> | <i>Tax base</i> | <i>Withholding rate</i> | <i>Tax withheld</i> |
|--------------------------|--|-----------------------|-----------------|-------------------------|---------------------|
| John Smith | Madrid | 00000000T | 200€ | 19% | 38€ |

Annuities are a special case. Forms 128 and 188 (withholdings) will apply but in a different way: depending on if they are temporary or life annuities and depending on the duration of the income and on the age of the beneficiary, important reductions could be applied on the basis of contribution.

- Annual Form 189 (surrender / capitalization value of the policies on 31 December). Should the policy not have surrender value, obviously it will not apply. This Form must be filed, from 1 to 31 of March of the following year, with this information included:
 - Surname and name of the policyholder
 - NIE / NIF (tax identification number)
 - Residence town or zip code
 - Insurance surrender / capitalization value on 31 December, of the previous year.
- Annual Form 210 (for non-resident companies without permanent establishment): it must be filed between 1 and 20 of January of the year following the accrual of the income –premiums sold in Spain– in question. The self-assessment form filed

applies exemptions (in the case of a double taxation agreement) provided for under Spanish law due to the taxpayer's residence status. For its application, it is necessary to submit a residence certificate. This residence certificate must be issued by the Tax Authorities of their country of residence, justifying this exemption. Said certificate must expressly state that the taxpayer is a resident within the meaning of the DTT. Residence certificates will be valid for one year after the date of issue.

To the Insurance Compensation Pool

The Compensation Pool forms part of the Ministry of Economy, Industry and Competitiveness and is a public entity inspired on the principle of compensation whose aim is to cover these extraordinary risks. For financing this body, the law lays down the surcharge on the extraordinary risks insurance, personal damage (life and accidents), property (direct material damage) and loss of profits. The Compensation Pool is a compensation scheme for damages caused by extraordinary events (severe floods, gales and hailstorms, earthquakes, etc.). It is characteristic of the Spanish system to define the catastrophic risks that are covered in consideration by the enormous potential loss that could be generated, but without conditioning the protection if there are occurrences that affect a great number of insured people or a wide expanse of territory, nor in the case of substantial damages that could lead to the event as being described as catastrophic. It is possible that the event might only affect a sole policyholder, who would have full rights to be indemnified but which on the other hand, would not require the public authorities

to issue an official declaration that there has been a catastrophe or that there is a catastrophic area. The coverage is automatic once one of the covered events has occurred. The only form to be filled in for life insurance companies to Compensation Pool is monthly Form 10. It is always necessary to declare this monthly form, but no information needs to be declared on policies with a small percentage of death risk coverage. It is understood that a life insurance policy mainly guarantees the risk of death if the capital in risk at any time exceeds 25% of the mathematical provision that the insurance company that had issued the policy must have constituted in accordance with the regulating standards of private insurance policies.

In order to fund them, the law establishes the following surcharges for the Extraordinary Risks Insurance, damage to goods, people (life and accidents), and loss of profits. By Resolution of the 27th of November, 2006. (B.O.E. No. 292, on December 7, 2006), of the DGSFP, amended by resolution of November 12, 2008 (BOE No. 280 of November 20) and resolution of May 31, 2016 (BOE n° 135, June 4), approves the rate currently.

Spanish non-Life Insurance taxation and surcharges

Non-life insurance does not have a complex taxation. However, it is necessary to study above all the Compensation Pool surcharges due to their casuistic regulations. In any case, we begin with non-life taxes. Later, we will treat in depth the surcharges.

To the Tax Authorities

With respect to Tax Authorities, the principal forms to fill in are:

- Monthly Form 430 (insurance premiums): 6% of the premium paid.
- Annual Form 480 (an annual summary of Form 430): it must be declared every year from 1 to 20 January.
- Annual Form 210: the same as that in life taxation, *vid.* previous page.

Insurance premiums are levied at 6% (the Insurance Premium Tax –IPT–). However, this tax will be exempt,

according to article 12 of Tax, Administrative, Labour and Social Security measures Act, in the following insurance operations: compulsory social insurance and collective insurance as an alternative to pensions plans; Life Insurance as stated under Title II of Insurance Contract Act; capitalization based on actuarial techniques; reinsurance policies; bail insurance; export credit insurance and combined agrarian insurance; international transport of merchandise or passengers; insurance relating to ships and airplanes used for international transport; health insurance and insurance pension scheme.

The insurer has to distinguish (in the monthly reports) those risks situated in the provinces of Navarre, Biscay, Alava and Guipuzcoa. To make an easy identification of the province of residence, for these four the zip code should begin with 31 for Navarre, 48 for Biscay, 20 for Guipuzcoa and 01 for Alava.

To the Insurance Compensation Pool (hereinafter CCS)

With respect to CCS, the principal forms to fill in is

- Form10 (Extraordinary risks) to be declared on a monthly basis.

Its rates on the insured capital are:

- Dwellings and dwelling communities: 0.08 per thousand;
- Offices: 0.12 per thousand;
- Business, shopping centers, department stores and the rest of simple risks: 0.18 per thousand;
- Industrial risks: 0.21 per thousand;

- Motor vehicles: fixed amount according to the type of vehicle;
- Civil works: different rates according to type, i.e. from 0.28 per thousand for motorways, the roads and railways, tubes and pipes 1.25 per thousand, bridges 1.03 per thousand, 1.63 per thousand for non-sport ports.
- Form 11 (Business interruption, monthly):
- Dwellings and dwelling communities: 0.05 per thousand;
- Rest of risks: 0.025 per thousand.
- Form 50 (Winding up charge, quarterly): 0.015 per thousand.

Below, obligatory surcharges and the forms are summarized, which should be used to make declarations to the Compensation Pool for those branches of coverage defined in the Annex of *LOSSEAR*

| <i>Branch</i> | <i>Name</i> | <i>Consorcio surcharge</i> | <i>Form</i> |
|---------------|-------------------------------------|--|-------------|
| 01 | ACCIDENTS | R.E. Direct damage to persons Liquidating activity | 10 |
| | | | 50 |
| 02 | ILLNESS (Including health care) | Liquidating activity | 50 |
| 03 | LAND VEHICLES (P.B.) (not railways) | R.E. Direct damage to persons Liquidating activity | 10 |
| | | | 50 |
| 04 | RAILWAY VEHICLES (P.B.) | R.E. Direct damage to persons Liquidating activity | 10 |
| | | | 50 |

| Branch | Name | Consortio surcharge | Form |
|--------|--|----------------------|------|
| 05 | AIRCRAFT | Liquidating activity | 50 |
| 06 | LACUSTRINE, MARITIME AND RIVER CRAFT | Liquidating activity | 50 |

| Branch | Name | Consortio surcharge | Form |
|--------|---|---|----------------|
| 07 | MERCHANDISE AND OT- HER ITEMS BEING TRANSPORTED (including luggage) | Liquidating activity | 50 |
| 08 | FIRE AND NATURAL ELE- MENTS (P.B.) | R.E. Direct damage to property Liquidating activity | 10 50 |
| 09 | OTHER DAMAGE TO GOODS (including hail, free- zing and theft) and Agricultural Insurance (excluding Combined Agricultural Insurance) (P.B.) | R.E. Direct damage to persons Liquidating activity | 10 50 |
| 10 | CIVIL LIABILITY ARISING FROM ROAD TRAFFIC | R.E. Direct damage to property (from 07/01/2016) S.O.A. Liquidating activity | 10 20 50 |
| 11 | CIVIL LIABILITY ARISING FROM AIR TRAFFIC | Liquidating activity | 50 |

8. SPANISH NON-LIFE INSURANCE TAXATION AND SURCHARGES

| <i>Branch</i> | <i>Name</i> | <i>Consortio surcharge</i> | <i>Form</i> |
|---------------|--|---|-------------|
| 12 | CIVIL LIABILITY ARISING FROM THE USE OF LACUSTRINE, MARITIME AND RIVER CRAFT | Liquidating activity | 50 |
| 13 | GENERAL CIVIL LIABILITY | Liquidating activity | 50 |
| 14 | CREDIT | Liquidating activity | 50 |
| 15 | GUARANTEE COVERAGE | Liquidating activity | 50 |
| 16 | DIFFERENT PECUNIARY DAMAGES the cause of which originates from: fire, theft, explosion, atmospheric phenomena, machinery breakdown | R.E. Loss of Profits Liquidating activity | 11 |
| | | | 50 |
| 17 | LEGAL DEFENCE | Liquidating activity | 50 |
| 18 | ASSISTANCE | Liquidating activity | 50 |
| 20 | DEATH | Liquidating activity | 50 |

*Cover and exclusions for Extraordinary Risks (CCS)*¹

Below we detail which damages are covered and excluded within the area of extraordinary risks of the Consorcio de Compensación de Seguros:

It is a characteristic of the Spanish system to define the extraordinary catastrophic risks that it covers, in consideration of the enormous potential for losses that they may generate, but without conditioning the protection to which events are produced that affect a very high number of policy holders or a very extensive area of land, or to the fact that they cause very considerable damages that allow the event to be qualified as a «disaster». It is possible that the loss affects a single policy holder, with full right to the compensation which, therefore, does not require an official declaration of «disaster» or «disaster area» to be issued by the public authorities.

The cover is automatic when one of the following guaranteed events has occurred:

- Natural phenomena: extraordinary floods, earthquakes, tidal waves, volcanic eruptions, atypical cyclones and the falling of astral bodies and meteorites. The risk that causes most damage in Spain is flooding, and for cover purposes, this is understood to be the waterlogging of the land produced by rain or melting of snow and ice; by water from lakes with natural outflows, from estuaries or rivers, or from natural water courses on the surface when their normal channels

1. Source: CCS.

overflow. Likewise, the sea pounding along the coast is included, although no waterlogging occurs. However, the rain directly falling on the insured risk is not included in this concept of flooding, or the collection of rainfall by roof or rooftop terrace, the drainage network or patios, as also the flooding caused by the collapse of dams, canals, drains, collectors and other artificial underground channels, except when the breakage has occurred as a direct result of an extraordinary event covered by the Consorcio.

The damages caused by earthquakes, tidal waves, volcanic eruptions and the falling of astral bodies or meteorites are covered whatever their intensity. In the case of atypical cyclones, amongst others, tornadoes and extraordinary winds, characterised by the existence of gusts of over 120 Km/h. are included, in accordance with the Regulation for Extraordinary Risks Insurance.

- The damages caused violently as a result of terrorism, rebellion, sedition, riot and turmoil.
- Events or actions by the Armed Forces or the Security Forces in times of peace.

The Consorcio de Compensación de Seguros does not cover the following cases:

The Consorcio's cover will not come into play and therefore, there will be not right to compensation, when any of the following circumstances occurs (article 6 of the Regulation for Extraordinary Risks Insurance):

Therefore, damages derived from the following are not covered.

Regarding insurance fields: lacking an insurance policy for the claimed goods, or that although it is held, it belongs to a branch to which the Extraordinary Risks system does not extend its cover (or charge any surcharge for it). This would be the case of insurance for freighting of goods, for construction and assembly, for civil liability, for legal defence and travel assistance. The same exclusion may be applied to the policies that cover agricultural productions that may be insured using the Combined Agricultural Insurance (article 4(a) of the Regulation for Extraordinary Risk insurance).

Regarding the direct cause of the claim, there will be no cover for extraordinary risks if the cause of the damages is due to an extraordinary risk that is not included in the different covers for extraordinary risk, mentioned in the risks covered.

- Direct rainfall on the insured risk or rainfall collected on the roof or rooftop terrace, in the drainage network or the patios.
- Unextraordinary winds, characterised by the lack of gusts of over 120 km/h.).
- Hail.
- Snow.
- Leaks, seepage or damp.
- Breakage of dams, drains or artificial canals (unless the breakage occurs as a result of an extraordinary event).
- Elevation of the water table, movement of hillsides, landslides or settling of land, rock falls and

similar phenomena, unless these were caused by the action of the rain water which, in turn, could have caused an extraordinary flooding situation in the area and these occurred simultaneously to the aforementioned flooding.

- Armed conflicts, although there has been no prior declaration of war.
- Disturbances during authorised demonstrations or legal strikes.
- Nuclear energy (although the damages caused to nuclear installations as a result of an extraordinary event are covered).
- Wave swell or ordinary currents when they affect goods totally or partially submerged in a permanent way.
- The mere passage of time or the lack of maintenance of the insured article.
- Events which, due to their magnitude or severity, are qualified by the Spanish Government as a «national disaster or calamity» (this qualification has never occurred in the Consorcio's history, in spite of the important losses caused by some catastrophic events).

Regarding the damaged goods, there will be no cover of the damages if these were produced as a result of a defect or fault of the article in question and not due to any of the extraordinary risk covers.

Regarding the type of damages: whereas they are indirect damages or losses of any type derived from direct or indirect damages other than the loss of profit

included in the extraordinary risk cover, laid down in the Regulation. For example, those caused by alterations in the supply of any type of energy are not covered. The loss of profits as a result of the damages suffered by other articles or by the damages suffered by other individuals or corporate bodies than the policy holder, due to, amongst others, the goods or services that they owe and cannot supply to the policy holder as a result of an extraordinary event.

STATISTICAL SHEETS OF EXTRAORDINARY RISKS

Insurance companies operating in the classes of insurance with mandatory surcharge payable to the Compensation Pool mentioned in article 7 of the consolidated text of its Legal Statute, approved by Royal Legislative Decree 7/2004 of 29 October as amended by Law 12/2006 of 16 May, shall provide the Compensation Pool with information about the policies they have taken out, through the statistical sheets whose forms and instructions are included on Annex 3 of this resolution, as stated in the following paragraphs:

- a) Insurance companies shall provide the information concerning the policies covering direct damages caused to the goods whose total sum insured is equal to, or exceeding, €18,000,000, as well as all the policies covering civil works, filling for each one of them the sheet included as Form 1 of Annex III of this resolution. This information shall refer individually to each of the stated policies which are in force as of 31 December of each year, whose

duration is annual or exceeds one year, as well as term policies issued or renewed during the reference year.

- b) Insurance companies shall provide the aggregated information referred in the sheet included on the aforementioned Annex 3 as Form 2, on policies in force as of 31 December each year covering all type of goods except for motor vehicles and civil works.
- c) Insurance companies shall provide the aggregated information on policies covering damages on motor vehicles as of 31 December of each year, whose duration is annual or exceeds one year, as well as the information regarding the term open policies or renewed during the reference year, through the sheet included on Annex 3 as Form 3.
- d) Insurance companies shall provide the aggregated information referred in the sheets included on Annex 3 as Form 4 and Form 4 bis, on policies covering personal damage (life or accident insurance policies) in force as of 31 December of each year, whose duration is annual or exceeds one year, as well as those whose duration is inferior and are open or renewed during the reference year.
- e) Insurance companies shall provide the individual information on policies covering loss of profits as a consequence of direct damages on the goods, whose total sum insured for this coverage is equal to, or exceeds, €9,000,000, even if the compensation limit is referred to an inferior amount, through the sheet included on Annex III as Form 5.

- f) Insurance companies shall provide the aggregated information on all the policies covering loss of profits as a consequence of direct damages on the goods, through the sheet included on Annex III as Form 6.

The duly filled sheets mentioned in the previous paragraph shall be submitted to the Compensation Pool before 30 April of each year, including the data collection for the 31 December of the previous year. The submission shall be made by using Form 0 of Annex III, through the online filing established by the Compensation Pool.

FIRE INSURANCE PREMIUMS. PREMIUM INFORMATION FROM THE FIRE AND NATURAL ELEMENTS SECTOR

The fourteenth additional provision to LOSSEAR established that from the financial year 2016 onwards information about the premiums (starting from year 2015), for the purpose of settling the rates for the maintenance of the fire prevention and extinction service and for the special contributions for the establishment and extension of the fire extinction service, has to be forwarded to the Compensation Pool.

Information will be given regarding one hundred percent of the premiums charged free of rebates for the sectors in accordance with the following details:

06: fire.

17: multi-risk Home.

18: multi-risk Trade.

19: multi-risk Residents' Associations.

20: multi-risk Industry.

21: other Multi-risks.

- The representatives from each insurance company for forwarding information about the declared premiums to the Compensation Pool will be those who have this consideration for the presentation and payment of the self-settlements of the compulsory self-settlements in the Compensation Pool's favour.
- The insurance company's representative must introduce the necessary keys and passwords. These are supplied by the Compensation Pool and differ from those given for the presentation of the self-settlement of surcharges using telematic means.

The deadline for declaration of premiums is from 1 March to 30 April.

Segundo Ruiz Rodríguez

Penalties and interest tax. Tax Fraud Prevention Act

The system is multi-layered and we have just detailed some of the basics below. In essence, the system punishes the late payer with increasing intensity as time passes and additional charges amount, if the late returns are not made voluntarily. Below, basic late reporting penalties are summarized:

| VOLUNTARY LATE RETURN | |
|-----------------------|---|
| within 3 months | 5% of due tax |
| within 3-6 months | 10% of due tax |
| within 6-12 months | 15% of due tax |
| more than 12 months | 20% of due tax, plus late interest at 3.75% |

| NON-VOLUNTARY LATE RETURN | |
|---------------------------|--|
| Enforced surcharge | 5% or 10% or 20% |
| Penalty | Minor infraction, 50% of due tax Serious infraction, 50-100% of due tax Very serious infraction, 100-150% of due tax |
| Interest | Will vary depending on legal specific circumstances |

The minor penalty is normally applied if there has been no effort on the part of the taxpayer to deliberately conceal income or if the amount of the tax and penalties is less than €3,000.

The higher penalties apply when forged documents, false accounting and outright fraud have been used to under-declare tax. The higher the proportion of the income fraudulently concealed, the higher the penalty.

- Additional interest charge for payments more than 1 year late: 3.75%.
- Penalties for late reporting where no tax is due: €100 (€200 if the Tax Office has prompted the taxpayer to make a return).

Act 7/2012, of 29 October, combines new measures designed to directly impact on areas where fraud is commonly most prevalent with other measures that enhance collection. One of the most ambitious measures consists of limiting the use of cash for certain transactions. The legislative experience in other EU countries, such as France and Italy, has been taken into consideration in this regard. The use of cash will no longer be permitted for payments equal to or greater than €2,500 in which at least one business owner or professional is involved. This limit will not be applicable to payments or deposits made with credit entities.

Anyone found in breach of this limit will face penalties of 25% of the value of the payment made in cash. Both the payer and the payee of the payment will be jointly liable for such breaches of the law and the authorities may bring an action against either party. Should the offence be

reported by one of the parties involved in the transaction, the Spanish Treasury will refrain from applying a penalty to that party if the offence was voluntarily reported to the Spanish Tax Office.

Furthermore, the new legislation requires all taxpayers to provide information on any accounts and capital located overseas of which they are the holders, beneficiaries or authorized users. This includes all forms of securities, shares or accounts held with financial entities, as well as capital or Life Insurance and real estate.

Failure to comply with this new requirement to provide information will lead to a system of penalties based on €5,000 per datum or series of data omitted, with a minimum of €10,000. Furthermore, income that is uncovered but has not been declared will be considered in the most recent tax period still applicable by law.

Segundo Ruiz Rodríguez

Registry of Insurance Policies Covering Death Risk

The Registry of Insurance Policies Covering Death Risk (Ministry of Justice) was introduced in Spain by Act 20/2005. The objective of this law is to record insured persons with a policy providing death coverage, including details of each policy and of any deletions or modifications of relevant data. The purpose of this Registry is to ensure that beneficiaries can find out about all the policies signed in their favour. For this reason, the insurance companies must inform this Registry of any life and accident insurances with death coverage that they have in Spain. The Registry receives information from insurers on the policies covering death and makes this accessible to the parties concerned in the event of the death of the life insured, by means of certificates similar to the last will and testament, also issued by the Registry.

It is mandatory to update the Registry on a weekly basis, even if the insurance company does not have newly insured people that week. A sample chart has been included below highlighting the information required. The insurance company needs an IT system which transforms this information into the format

required by the Registry. Once the information is sent, the beneficiaries will be able to consult this Registry upon the death of the life assured.

A. REPORTING CHART

In the chart included below, there are 7 columns:

1. Type of operation to be carried out:
 - *Inscripción*: new life insured (*Registration*).
 - *Modificación*: e.g., change of the date on which the policy will end (*Rectification*).
 - *Cancelación*: e.g., the policyholder asks for a total surrender of the policy (*Cancellation*).

2. Policy number.

Every insurance policy must have a policy number. In order to distinguish between individual policies and group policies, as well as between each insured person within a group policy, in the last case, additional numbers are added, for this purpose, to the original policy number.

If the policy is an individual policy, the policy number is followed by the number 0.

If it is a group policy, it is necessary to add the number of the individual certificate of each life insured within the group policy. Therefore, the policy number must be recorded in one of the following manners:

Example 1 – Individual policy: policy number 3330

Example 2 – Group policy: Policy number 333

Number of the insured is the last number of the following example:

- John Smith: 3331
- Pedro Gómez: 3332

3. First name of the life or accident insured.
4. Surname of the life or accident insured.
5. NIF/NIE: all insured persons must have either a NIF (identification number for Spanish people) or a NIE (identification number for non-Spanish residents in Spain). If a non-Spanish person does not have a NIE, he/she is not legally registered as a Spanish resident and therefore is not qualified to sign a policy sold by a life insurance company which operates in Spain. The tax ID number of the life assured is required:
 - For Spanish citizens, NIF (*Número de Identificación Fiscal* / Tax Identification Number) with 8 ciphers + 1 letter (9 «spaces»).
 - For resident foreigners, NIE (*Número de Identidad de Extranjero* / Foreigner Identification Number) with 1 letter + 7 ciphers + 1 letter (9 «spaces»).
6. Beginning date of policy. The date format is `yyyymmdd`.
7. Ending date of policy. If the policy does not have an end date, the number 0 should be inserted. The date format is `yyyymmdd`.

The IT system of the Registry is very sensitive and only accepts information sent in capital letters.

Without a valid tax ID number (NIF / NIE) it is not possible to pay taxes (withholdings) or to inform the Registry (about the life insured). In both cases, the systems (for paying the taxes or informing the Registry) would refuse the data.

See sample chart below,

| Type of operation | Policy number | Name of life insured | Surname of life insured | NIF/NIE | Date of beginning | Date of ending |
|-------------------|---------------|----------------------|-------------------------|-----------|-------------------|----------------|
| Inscripción | C10261790 | JOHN | SMITH | X1111111M | 20091002 | 0 |
| Modificación | C10265790 | PETER | JONES | X2222222N | 20091002 | 0 |
| Cancelación | C10260990H | JAMES | SMITH | 12345678O | 20091013 | 20091201 |

B. SOME PRACTICAL QUESTIONS AND THEIR ANSWERS

1. «Should all life assured residents in Spain (regardless of whether they are the policyholder or not) be declared?»

All life assured residents in Spain (regardless of whether they are the policyholder or not) must be declared.

2. «Do we need to declare beneficiaries?»

No, you do not.

3. «We do not have to report on a life assured where the policyholder and beneficiary are the same, but what happens if the life assured is a different person to the policyholder and the beneficiary?»

The law does not make any exception. It only says that if the policyholder and beneficiary are the same person, it is not necessary to report (article number 4.2 (b) of Law 20/2005).

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez

Data protection issues

Article 99.7 LOSSEAR says insurance companies can establish common files containing personal data for the purposes of claim settlement, compilation of actuarial statistics to value and select risks and studies on insurance techniques. The transfer of data to such files will not be subject to the prior consent of the persons concerned, who must, however, be informed of the possible transfer of their personal data to such common files for the purposes specified. These notices must explicitly indicate the name of the person or organization responsible in order to enable data subjects to exercise their rights of access, rectification and cancellation provided by law.

Common files may also be established to prevent insurance fraud, for which the consent of the person concerned will not be necessary. When their data is entered for the first time, however, data subjects must be notified of the name of the person or organization in charge of the file and the manners in which they may exercise their rights of access, rectification and cancellation.

In any case, processing of health-related data will be subject to the explicit consent of the person concerned.

The creation of the above files will be subject to prior notification to DGSFP specifying the organization responsible for the file and the type of data contained therein, as well as to the Data Protection Agency.

The data protection legislation that will be applicable to an insurance company which operates in Spain in FoS is its national legislation because this insurance company does not have permanent establishment in Spain. There might be a problem with the time limit of keeping records of the data established in the Spanish Anti-Money Laundering Bill (applicable to life insurance products): the period to keep all documents related to any life insurance investment operation is 10 years, according to articles 2 and 25 of Act 10/2010, of 28 April, Spanish Anti-Money Laundering Bill. The problem could be if the domestic Data Protection Act of the insurance company which operates in FoS requires keeping records for a shorter period. Therefore, if this situation should arise, it is necessary to check if the domestic Data Protection Act allows the possibility of extending the time limit of archiving data, in accordance with the requirements of other specific laws (in this case, the Spanish Anti-Money Laundering Bill). In Spain, our Data Protection Act allows this possibility.

Prevention of money laundering and terrorism financing

The following legislation is the framework within which all businesses under the risk of being an instrument of criminal or terrorist organizations for their illicit purposes must operate:

- Directive 2005/60/CE of the European Parliament and the Council, of 26 October, on the prevention of the use of the financial system for money laundering and terrorist financing and Directive 2006/70/EC, 1 August, laying down detailed rules for implementing Directive 2005/ 60/EC.
- Law 10/2010 of 28 April, Law on the prevention of money laundering and terrorist financing.
- Royal Decree 304/2014 of 5 May, Regulation on the prevention of money laundering and terrorist financing.
- Resolution of 10 August 2012, Decision on equivalent jurisdiction.
- Order EHA/2444/2007 of 31 July, Order on external review.

- Order EHA/2619/2006 of 28 July, Order on currency exchange and wire transfers.
- Order EHA/1439/2006 of 3 May, Order on cash controls.

According to this legislation (especially article 2 of Act 10/2010), life insurance companies authorized to operate in Spain and insurance brokers, when they act in respect of Life Insurance and other investment related services, are obliged subjects to Spanish regulations. Obviously, this means that they must implement the measures required by the law in Spain, in addition to the legal AML requirements of their country, including the companies which operate in FoS. In this regard, it is very interesting the press release nº 54/13 of the Court of Justice of the European Union about the Judgment in Case C-212/11 Jyske Bank Gibraltar Ltd v Administración del Estado (the Judgment is included in the Anexes). This Judgment confirms the Spanish legislation, which rules that life insurance companies authorized to operate in FoS in Spain are obliged subjects to Spanish regulations. The main obligations for a company which operates in FoS in Spain are:

- To establish procedures for prevention and appropriate bodies of internal control and communication in order to know how to prevent and deter operations related to money laundering (it is usually possible to use the proceedings and operating manuals located and approved in the headquarters of the relevant country).

- An authorized representative of the company (a director or high positioned manager) must be appointed to manage and deal with SEPBLAC (Spanish Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences) as well as deliver the Monthly Operations Statement or fill in a negative statement every six months if there are no suspicious operations. This representative must name a person with Spanish residence to act on his/her behalf in Spain filling in these statements and dealing directly with SEPBLAC.
- To conduct an annual audit, according to the Spanish Law, of the procedures and internal control bodies and communication by an outside expert.

Below, there are the common rules for all obliged subjects in relation to AML.

DUE DILIGENCE MEASURES

- ◆ *Simplified due diligence measures* (low risk: articles 9 and 10 Law 10/2010 and articles 15 -18 Royal Decree 304/2014).

The application of simplified due diligence measures shall be graduated in line with the risk, according to the following criteria:

- a) Prior to the application of simplified due diligence measures with respect to a particular customer, product or transaction, included

in the relevant regulations, obliged subjects shall verify that such customer, product or transaction effectively involves a low risk of money laundering or terrorist financing.

- b) In any case, the application of simplified due diligence shall be consistent with the risk. Obligated subjects shall refrain from applying or shall cease to apply simplified due diligence measures as soon as they perceive that a customer, product or transaction does not involve a low risk of money laundering or terrorist financing.
- c) In any case, obliged subjects shall maintain a continuous level of monitoring which is sufficient in order to detect transactions warranting special review.

Simplified due diligence measures are suppose, for example:

- a) Verifying the customer's or the beneficial owner's identity only when a quantitative threshold is exceeded after the establishment of the business relationship.
- b) Reducing the frequency of the document review process.
- c) Reducing the monitoring of the business relationship and the scrutiny of activity, inferring its purpose and nature on the grounds of the type of transactions or business relationship established transactions not exceeding a quantity threshold.

- d) Not collecting information on the customer's professional or business.

In relation to insurance market, according to the article 16 of Royal Decree 304/2014, it is important to take into account that obliged subjects may apply, on a risk sensitive basis, simplified due diligence measures in respect of the following products or transactions, for example: life insurance policies where the annual premium does not exceed €1,000 or the single premium does not exceed €2,500.

- ◆ *Normal due diligence measures* (medium risk: articles 3 - 8 Law 10/2010 and articles 4 -14 RD 304/2014).

The obliged subjects shall identify and verify by means of supporting documents, all the natural or legal persons seeking to establish business relations or intervene in any operations.

Under no circumstances shall the obliged subjects maintain business relationships or carry out transactions with natural or legal persons who have not been duly identified.

In the insurance field: the obliged subjects will identify and check, by means of supporting documents, the identity of the policyholder, before the conclusion of the contract. The company will record the identity of the beneficiary or beneficiaries as soon as they are appointed by the policyholder. As for generically appointed beneficiaries, by will or by other means, the obliged subject shall obtain the information

necessary to establish the identity of the beneficiary at the time of payment.

Identification of the beneficial owner (article 4 Law 10/2010 and articles 8-9 RD 304/2014).

Obligated subjects shall identify the beneficial owner and take the appropriate steps to verify the identity of the latter before entering into business relationships or executing any transaction.

For the purposes of this Law, beneficial owner shall mean:

- a) The natural person or persons on whose behalf it is intended to establish a business relationship or intervene in any transaction.
- b) The natural person or persons who ultimately owns or controls, directly or indirectly, a percentage of more than 25% of the capital or voting rights of a legal person, or who by 7 other means exercises control, directly or indirectly, over the management of a legal person. Companies listed on a regulated market of the European Union or equivalent third countries are exempted.
- c) The natural person or persons who ultimately own or control over 25 percent or more of the property of a legal arrangement or entity that administers or distributes funds, or, where the beneficiaries of the legal arrangement or entity have yet to be determined, the class of persons in whose main interest is set up or operates.

Obligated subjects shall gather information on clients to determine whether they are acting on their own or on behalf of third parties. Where there are indications or certainty that clients are not acting on their own, the institutions and persons covered by the law shall gather the information required in order to find out the identity of the persons on whose behalf they are acting.

- ◆ *Enhanced due diligence measures* (high risk: articles 11 and 16 Law10/2010 and articles 19 -22 RD 304/2014).

Obligated subjects shall apply, in addition to normal due diligence measures, enhanced due diligence measures in business areas, activities, products, services, distribution or marketing channels, business relationships and transactions that present a higher risk of money laundering or terrorist financing.

For example: business relationships and transactions under unusual circumstances, business relationships and transactions with customers who usually use bearer means of payment, business relationships and transactions executed through intermediaries, etc.

Enhanced due diligence measures are:

- a) Updating the data obtained in the customer acceptance process
- b) Obtaining additional documentation or information on the purpose and nature of the business relationship

- c) Obtaining additional documentation or information on the source of the funds
- d) Obtaining additional documentation or information on the customer's source of wealth
- e) Obtaining documentation or information on the purpose of the transactions
- f) Obtaining senior management authorization to establish or maintain the business relationship or to carry out the transaction
- g) Enhanced monitoring of the business relationship, increasing the number and frequency of controls applied and selecting transactional patterns for review
- h) Reviewing and documenting the consistency of the business relationship or the transactions with the documents and information available on the customer
- i) Reviewing and documenting the economic logic of the transactions
- j) Requesting that payments or deposits are made into an account in the customer's name at a credit institution domiciled in the European Union or in equivalent third countries
- k) Limiting the amount or nature of the transactions or the means of payment used.

Obligated subjects shall include the beneficiary of the life insurance policy as a relevant risk factor for purposes of deciding if enhanced due diligence measures should be applied. Where the beneficiary poses a risk higher than average risk, enhanced

due diligence shall include appropriate measures to identify and verify the identity of the beneficial owner prior to paying the benefit resulting from the contract or to the policyholder's exercise of rights of surrender, deposit or pledge granted by the policy.

Third-party application of due diligence measures (outsourcing)

For the application of due diligence measures, obliged subjects may rely on third parties subject to obligations of prevention of money laundering and terrorist financing in the terms set out in article 8 of Law 10/2010 of 28 April. However, the obliged subjects remain fully responsible for the business relationship or transaction, even if the breach is attributable to the third party, without prejudice, where appropriate, to the responsibility for this.

The parties' respective obligations shall be included in a written formalisation agreement for third party implementation of due diligence measures to formalize the respective obligations. In accordance with such agreement, in all cases the obliged subject will require from the third party:

- a) Immediate transmittal of customer information.
- b) Immediate transmittal, if requested by the obliged subject, of copies of those documents accrediting provided customer information.

Formalisation agreements may cover all of the due diligence measures, except for the continuous

monitoring of the business relationship, affecting all customer information held by the third party, by adopting general agreements; or only one or several specific elements of the customer due diligence, through the adoption of special agreements. In any case, the obliged subject will check that the third party is subject to prevention of money laundering and terrorist financing obligations and is supervised in this area, implementing reasonable measures to ascertain that the third party has adequate procedures for compliance with customer due diligence and record keeping measures.

Third parties shall make information obtained in application of the due diligence measures immediately available to the obliged person. Likewise, third parties shall send a copy of the documents required pursuant to this section to the obliged person, at the request of the latter.

These provisions shall not apply to outsourcing or agency relationships where, on the grounds of a contractual agreement, the outsourcing service provider or agent is to be regarded as part of the obliged person.

REPORTING OBLIGATIONS

Special review (article 17 Law 10/2010 and article 25 RD 304/2014):

The obliged subjects shall examine with special attention any transaction or pattern of complex, unusual or no apparent economic purpose or showing evidence of fraud or behaviour simulation.

Suspicious transactions reporting (article 18 Law 10/2010 and article 26 RD 304/2014):

Obliged subjects shall, on their own initiative, notify the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC) of any act or transaction, even the mere attempt, regarding which, following the special review referred to in the previous article, there is any indication or certainty that it bears a relation to money laundering or terrorist financing.

Abstention from execution: the institutions and persons covered by this law shall refrain from carrying out any transaction of those referred to in the previous article.

However, when such abstention is not possible or may hinder the investigation, the institutions and persons covered by this law shall be free to perform it notifying the Executive Service of the Commission immediately thereafter in accordance with the provisions of article 18.

Systematic reporting DMO (Required Monthly Statement) (article 20 Law 10/2010 and article 27 RD 304/2014):

In any case, obliged subjects shall report on a monthly basis to the Executive Service of the Commission:

- a) Transactions entailing the physical movement of coins, paper currency, traveller's cheques, cheques or other bearer documents issued by credit institutions, except those that are credited or debited to a customer's account*, for amounts exceeding €30,000 or the equivalent amount in foreign currency.
- b) Obligated subjects that perform money remittances in the terms set out in article 2 of Law 16/2009 of 13 November, on payment services, shall report to the Executive Service of the Commission those transactions entailing the physical movement of coins, paper currency, traveller's cheques, cheques or other bearer documents for amounts exceeding €1,500 or the equivalent amount in foreign currency.
- c) Transactions carried out by or with natural or legal persons who are resident, or those acting on their behalf, in territories or countries designated for that purpose by Order of the Minister of Economy and Competitiveness (tax heavens), as well as transactions involving transfers of funds to or from such territories or countries, irrespective of the residence of the persons involved, provided that the amount of those transactions exceeds EUR 30,000 or the equivalent amount in foreign currency.
- d) Transactions involving movements of means of payment subject to mandatory declaration under article 34 of Law 10/2010 of 28 April.
- e) Aggregate information about money remittance activity, as defined in article 2 of Law 16/2009 of 13 November, on payment services, broken down

by country of origin or destination and by agent or place of business.

- f) Aggregate information on international transfers of credit institutions, broken down by country of origin or destination.
- g) Transactions specified by Order of the Minister of Economy and Competitiveness.

In the absence of transactions requiring systematic reporting, obliged subjects shall notify this fact to the Executive Service of the Commission on a semi-annual basis (negative statement).

For the purposes of the Act, physical movement of money has a literally meaning. The obligations are not applicable to banking transactions between the insurer and the policyholder or beneficiary, as it is understood that, as there is a bank account involved, the relevant bank shall be responsible for the appropriate due diligence – the bank in which the Policyholder or the Beneficiary has deposited his/her money–.

Collaboration with SEPBLAC (article 21 Law 10/2010):

The obliged subjects shall provide documentation and information if the Commission of Prevention of Money Laundering and Monetary Offences requires it.

Non-disclosure obligations (article 24 Law 10/2010):

The obliged subjects and their directors and employees shall not disclose to the customer or to third parties that the information has been communicated to the Executive

Service of the Commission or under discussion or any operation can be examined if it could be related to money laundering or the financing of terrorism.

This prohibition does not include disclosure to the competent authorities, including centralized prevention bodies, or disclosure for law enforcement purposes as part of a criminal investigation.

Record keeping (article 25 Law 10/2010 and articles 28-30 RD 304/2014):

Obligated subjects shall keep all documents obtained or generated in the due diligence process, including, in particular, copies of verified identification documents, customer statements, documents and information provided by the customers or obtained from reliable third-party sources, contract documents and the results of any analysis carried out, **for a period of ten years (10 years)** from the date of termination of the business relationship or the occasional transaction execution.

INTERNAL CONTROL MEASURES

Internal control procedures (article 26 Law 10/2010 and articles 31-40 RD 304/2014):

- Obligated subjects shall adopt in writing and implement adequate policies and procedures of customer due diligence, reporting, record keeping, internal control, risk assessment and management, ensuring reporting and compliance with the provisions of this law in order to forestall and

prevent transactions related to money laundering or terrorist financing.

- Obligated subjects shall adopt an appropriate manual for the prevention of money laundering and terrorist financing, which shall be kept up to date, with complete information on the internal control measures referred to in the previous paragraphs. The manual shall be available to the Executive Service of the Commission for the performance of its supervisory and inspection duties and the latter may propose to the Standing Committee of the Commission for the Prevention of Money Laundering and Monetary Offences the formulation of formal requests to urge obliged subjects to take appropriate corrective measures.
- Obligated subjects shall adopt in writing and implement an explicit customer acceptance policy.
- Obligated subjects shall appoint a representative to the Executive Service of the Commission, who shall be responsible for compliance with the reporting requirements set out in Law 10/2010 of 28 April (Form F22). The representative may also appoint up to two authorized persons who will act under the direction and responsibility of the representative to the Executive Service of the Commission. The representative to the Executive Service shall be responsible for the fulfilment of the reporting obligations set out in this law, for which he/she shall have unlimited access to any information in the possession of the obliged person (Form F22-6).
- Obligated subjects shall train their employees so that they know the law and how to comply with it.

- Obligated subjects, notwithstanding their direct liability, shall ensure that their agents effectively comply with applicable AML obligations.

External review (article 28 Law 10/2010 and article 38 RD 304/2014):

The internal control measures shall be subject to an annual review by an external expert (a person having the adequate academic and professional background to perform the task correctly). Obligated subjects shall appoint an external expert (Form F22-7).

The annual External Expert Report shall evaluate the AML measures implemented, assess their effectiveness, carry out any corrections/improvements, etc.

The results of the review shall be documented in a report detailing the internal control measures in place, assessing their operational efficiency and eventually proposing changes or improvements as required. However, in the two years following the issue of this report, it may be replaced by a monitoring report issued by the external expert, dealing only with the appropriateness of the measures taken by the obliged person to remedy the deficiencies detected.

OBLIGATIONS REGARDING PAYMENT MEANS

Obligation to declare (article 34 Law 10/2010 and article 27.1(d) RD 304/2014):

Prior declaration shall be made by natural persons who, acting on their own behalf or on behalf of a third party, perform the following movements:

- Incoming or outgoing cross-border movements of means of payment for an amount of €10,000 or more or its equivalent in foreign currency.
- Movements within national territory of means of payment for an amount of €100,000 or more or its equivalent in foreign currency.

Natural persons acting on behalf of companies that are duly authorised and registered by the Ministry of Internal Affairs, and that engage in the professional transportation of funds or means of payment shall be exempted from the obligation to declare under this article.

For these purposes, movement shall mean any change of location or position taking place outside the address of the bearer of the means of payment.

For the purposes of this law means of payment shall mean:

- a) Paper money and coins, domestic or foreign
- b) Bearer cheques denominated in any currency
- c) Any other instrument, including electronic ones, designed to be used as a bearer payment means.

POSSIBLE PENALTIES

For serious violations, the company could be penalized with an amount which will go from a minimum of €60,000 up to a maximum equal to the greater of the following figures:

- 1% of equity capital of the entity

- the economic substance of the transaction, plus 50%
- €150,000

Directors and managers could be penalized with a minimum of €3,000 and a maximum of €60,000 including a temporary suspension for a period not exceeding one year.

For very serious violations, the company could be penalized with an amount which will go from a minimum of €150,000 up to a maximum equal to the greater of the following figures:

- 5% of the entity own resources
- twice the economic substance of the transaction
- €1.5 million

Revocation of the administrative authorization to operate could be applied for very serious violations.

Directors and managers could be penalized with an amount between €60,000 and €600,000 and penalized with disqualification from office for 10 years in the entities subject to this Act.

SOME PRACTICAL QUESTIONS AND THEIR ANSWERS

1. «What does article 27(a) of the Royal Decree 304/2014 mean in the context of an insurance policy (“con excepción de las que sean objeto de abono o cargo en la cuenta de un cliente”)? Our premiums are all submitted by direct transfer of funds to the insurer into a policy, rather than an account

in the name of the customer. The section seems to relate to physical deposits of cash and paper instruments above €30,000 only».

This section, including the quoted exception, refers only to the physical movement coins, paper currency, traveller cheques, cheques or other bearer documents.

It is necessary to take into account that the limit of €30,000 cannot be overcome by fractioned payments.

2. *«What are disclosing entities that perform money transfers under Art 27 b) of the Royal Decree 304/2014?»*

Article 27(b) refers, once again, to transactions entailing the physical movement of coins, paper currency, travellers cheques, cheques or other bearer documents for amounts exceeding €1,500 or the equivalent amount in foreign currency. Therefore, this section is not applicable to the insurer that establishes all the premiums or payments of benefits are paid by bank transfer.

3. *«What is the list of tax havens under Art 27(c) of the Royal Decree 304/2014? Must we report any monies paid by entities or persons in those havens to the insurer, and vice versa, regardless of whether a Spanish policy is involved? Does the €30,000 threshold mentioned relate to Art 27(a) for example, is a physical deposit of cash or cheque required, or can it be any direct transfer?»*

1. Dominica
2. Turks and Caicos Islands
3. Grenada
4. Vanuatu

5. Fidji
6. British Virgin Islands
7. Bahrein
8. Guernesey and Jersey (Channel Islands)
9. US Virgin Islands
10. Brunei
11. Jordan
12. Lebanese Republic
13. Falkland Islands
14. Liberia
15. Gibraltar
16. Isle of Man
17. Liechtenstein
18. Mariana Islands
19. Anguilla
20. Macao
21. Antigua and Barbuda
22. Montserrat
23. Monaco
24. Nauru
25. Oman
26. Solomon Islands
27. Bermuda
28. St Vicent and the Granadines
29. Cayman Islands
30. Saint Lucia
31. Seychelles

32. Cook Islands

Yes, you must report any monies paid by entities or persons in those havens to SEPBLAC, and vice versa, as long as the policy, or the payment or the transaction, are legally considered a Spanish operation, subscribed with the insurer in FoS, in Spain. In any case, we can inform you that, as a general practice, the Spanish insurers do not pay any kind of surrenders in «tax havens».

As for the €30,000 threshold, it can be any direct transfer as long as the money transferred exceeds €30,000 or the equivalent amount in foreign currency.

4. *«What types of transactions must be reported? For example initial subscriptions of premiums, top-ups, encashments, credits to the policy such as dividends and asset sales?»*

The relevant criteria are the following:

- Physical movement of coins, paper currency, traveller cheques, cheques or other bearer documents –for the amounts stated above–.
- Operations involving residents in tax havens –for the amount stated above–.
- Transactions involving movements of means of payment (as previously explained, only referred to natural persons).
- Money remittance activity as defined in article 2 of Law 16/2009 of 13 November, on payment services:

Payment services for the purposes of the FoS:

- i. The deposit and withdrawal of cash in a payment account and those transactions necessary for the management of payment accounts;
- ii. The execution of payment transactions (including transfers of funds) through a payment account with the payment services user's provider or with any other payment services provider;
- iii. The execution of payment transactions when the funds are covered by a credit line opened for a user of such services;
- iv. The issuance and acquisition of payment instruments;
- v. Money remittance; and
- vi. The execution of payment transactions in which the payer's consent to each transaction is transferred by any telecommunication, digital or IT device, and the payment is made through the corresponding telecommunication, IT system or network operator, which only acts as an intermediary between the payment services user and the supplier of the goods and services.

Therefore, in general this section is not applicable to the insurer when all the premiums or payments of benefits are paid by bank transfer (but you have to take into account the mentioned article 27.1.c –tax havens– as an exception).

5. *«What are the thresholds for each of the above types of transaction (if not stated above)?»*

For the transactions/operations listed on article 27 of Royal Decree a), b) and c), the thresholds are €30,000,

€1,500 and €30,000 respectively. For the rest of operations no threshold is provided.

6. *«Is there a template for reporting available?»*

The application DMO is required in order to submit the monthly operations statement and the biannual negative statement. Once the representative is appointed, we can take care of all the necessary arrangements in order to submit such statements.

7. *«In particular, once a transaction must be individually reported what details are needed, for example, policyholder name, address, account number, transaction type (premium, encashment, remittance to policy), and jurisdiction from/to?»*

- Communicating entity
- Type of operation
- Tax id number
- Month
- Number
- Number of operations
- Amount (in euros)

For fractionated operations (in addition):

- Date from
- Date until

8. *«What should be our approach to the back book?»*

Obliged subjects shall apply the due diligence measures provided for in the law and in the Royal

Decree not only to all new customers but also to existing customers, on a risk-sensitive basis. In any event, obliged subjects shall apply due diligence measures to existing customers who contract new products or conduct a transaction that is significant for its volume or complexity.

Obliged subjects shall apply to all existing customers the due diligence measures set out in Chapter II of the Law within five years of the coming into force of this Law (Seventh transitional provision in relation with the article 7.2 of the Law 10/2010).

9. *«Which type of entity would SEPBLAC consider independent to do the audit?»*

According to article 28.2 of Act 10/2010, any person or company that is qualified (academically and with experience, not any special requirement). Obliged subjects shall not entrust the external review to any natural person who renders or has rendered them any other kind of paid services in the three years prior or following to the date of issue of the report. There is no reference to entities; the relevant fact is that the natural person or the company responsible for the audit is considered independent.

Form F-22-7 is used to inform SEPBLAC of the outside expert's intention to act as such. Once this form was filled in, we would help this audit company to report the Spanish SEPBLAC.

10. *«Have you any other comments to make, particularly whether FoS entities are providing all of the categories of information?»*

According to Act 10/2010, «this Law shall be considered to cover non-resident persons or entities that,

through branches or agents or the provision of services without permanent establishment, carry out activities in Spain of a similar nature to the persons or entities referred to in the previous subparagraphs» (list of obliged subjects). Insurance companies will have to provide the required categories of information according to article 27 of the Royal Decree.

A problem could be that the Spanish Anti-Money Laundering establishes that the period to keep all documents related to any investment life insurance operation is 10 years. So, you have to check if your national Data Protection allows the possibility of extending the time limit (seven years) in accordance with the requirements of another specific laws (in this case, the Spanish Anti-Money Laundering Bill). In Spain, our Data Protection law allows this possibility.

Finally, in relation to the appointment (once you have submitted it) of your representative responsible for AML in Spain, the SEPBLAC (Spanish Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences) has the term of 15 days to request more information or more documents. If they do not contact you, that means the appointment of your representative responsible for AML in Spain has been approved.

The insurer has to send to the SEPBLAC the text below at some moment between the 1 and 15 of July and between the 1 and 15 of January, each year, with regard to the preceding six-month period, if you has not had awareness of any fact or operation whatsoever, not even the mere attempt, related to which there is some evidence

or certainty that it is connected with money laundering or the funding of terrorism. The only part that would be changed in this draft would be the time period and the year, if necessary: January/June and July/December. To avoid translations, it would be more convenient (not necessary) to send the text in Spanish. This letter must be sent as an attached file, and must be signed by the representative responsible for AML in Spain. It would say:

«Por medio de la presente declaro que LIFE INSURER no ha tenido conocimiento, en el desarrollo de su actividad en España, de hecho u operación alguno, incluso la mera tentativa, respecto al que exista indicio o certeza de que está relacionado con el blanqueo de capitales o la financiación del terrorismo, durante el período que abarca desde el dd-mm-yyyy al dd-mm-yyyy».

(I hereby declare that LIFE INSURER, in the development of its activity in Spain, has not had awareness of any fact or operation whatsoever, not even the mere attempt, with regard to which there is some evidence or certainty that it is connected with money laundering or the funding of terrorism, during the time period that starts in dd-mm-yyyy and ends in al dd-mm-yyyy).

Some issues about regulatory law

A. INSURANCE COMPANIES IN SPAIN, WITH LEGAL HEAD OFFICE IN OTHER EUROPEAN ECONOMIC AREA MEMBER STATES (EEA COMPANIES)

Insurance companies, whose head office is in an EEA Member State other than Spain and operate under the regime of right of establishment or under the regime of the freedom to provide services, must act in compliance with provisions established in the general interests and provisions regulating and supervising insurance companies and particularly those protecting the policyholder, as shall be applicable. They must present all documentation proving compliance in Spain with all applicable Spanish provisions to the Bureau of Insurance (DGSFP) within the same terms as Spanish insurance entities (article 51.2 of LOSSEAR).

If the Bureau of Insurance should find that any of the insurance companies referred to in the previous paragraph fail to comply with applicable Spanish provisions, a request will be made for them to make the appropriate changes in order to ensure due compliance. Failure to do so will result in DGSFP informing the supervisory authority of the Home Member State to check that all steps

are taken to ensure that the insurance entity terminates their irregular situation.

INSURANCE TRANSFERS

According to article 102 of RDOSSEAR, when Spain is the Member State of the commitment or location of risk, the DGSFP must approve any transfer of insurance contract portfolios from one insurance entity legally residing in another EEA Member State. Equally, the DGSFP must also be consulted when the transferor is a branch established in Spain of an insurance entity with their legal head office in a different EEA Member State. Finally, when the transferee is a Spanish insurance entity, the Ministry must certify that the transferee has sufficient solvency.

The DGSFP must state its criterion within three months upon receiving the application for conformity, request for opinion or certification submitted by the Home Member State of the transferor insurance entity. If the term has expired and no ruling has been issued in this respect, conformity will be considered approved, the requested opinion positive and the certification issued.

When the Home Member State of the transferor authorises the transfer, the DGSFP must make public the transfer if Spain is the Member State of the commitment or risk location.

INTERVENTION MEASURES

When the supervisory authority of an insurance entity domiciled in an EEA Member State other than

Spain, operating therein under the regime of the right of establishment or the regime of the freedom of services, revokes administrative authorisation, DGSFP will prohibit this insurance entity from contracting new insurance under both regimes. In this case, and with a view to safeguarding the interests of the insured parties, DGSFP may, in collaboration with the mentioned authority, take all special control measures considered necessary (article 170 of LOSSEAR).

Insurance entities domiciled in another EEA Member State which operate in Spain under the regime of the right of establishment or the regime of the freedom to provide services are subject to the penalising power of the Ministry of Economy, Industry and Competitiveness.

If an insurance entity domiciled in a different Member State has been subjected to a special control measure taken by the supervisory authority of said Member State, pertaining to prohibition of operations, DGSFP should request that the same step be taken with regards to the assets of the insurance entity situated in Spain, specifying those which must be concerned by it.

With respect to an insurance entity with head office in an EEA Member State other than Spain, including its branches in Spain or in other EEA Member States, liquidation or controlled administration proceedings should be brought, this means that proceedings will have the same effect in Spain as in the EEA Member State in which the measure was adopted or proceedings brought.

DGSFP may ask the Supervisory Authorities of other EEA Member States for information on the situation and

development of liquidation proceedings involving entities subject to the supervision of said authorities.

HOW TO OPERATE IN FREEDOM OF SERVICES IN SPAIN

From 1 January 2016 onwards it is not compulsory to appoint a tax representative in Spain for the insurance companies whose domicile is in another member State of the UE and that operate in Spain under the freedom to provide services. Obviously, this new legal situation does not mean that these insurers shall cease to have their «representative» in this country. Due to practical reasons related to their operating capacity and efficiency, it is advisable to keep such «representative» for the sake of a proper and direct relationship with the Spanish Tax and Insurance Authorities.

According to article 57 of LOSSEAR, the Insurance Authorities from the European State of residence of an insurance entity located within the European Economic Area must communicate to the Spanish Regulator the aim of the insurer to operate in Spain.

On a different matter, the insurance company must have a NIF in Spain. It is a number given by the Tax Authorities for tax purposes. In the case that the insurance company does not have one, its tax representative in Spain can acquire one for them. The process is very simple. The following documentation is necessary:

- Certificate of acknowledgement (written up by a Notary), giving credit of the existence of

the insurance company in other country. This certification must be duly stamped with the Hague Apostille. A sworn translation of the certification is required if it is not in Spanish.

- Power of attorney which must authorize a person in asking the Spanish Tax Authorities for an insurance company NIF.

With these documents it is possible to fill in a 036 Form and to request the NIF from the Spanish Tax Authorities.

Finally, it is necessary to point out that insurers under freedom of services are likewise obliged to respond to and settle their clients' complaints, but they are not required to create a Client Attention Service Department in Spain.

HOW TO ESTABLISH A BRANCH IN SPAIN

Required deposits

On the assumption that minimum capital requirements are determined by the home jurisdiction, there are no requirements to maintain any nominal capital or deposits in the branch country when it is an EEA insurance company.

Statutory Reporting Requirements

Branches of foreign companies (non-EEA countries) have to submit accounts in respect to their business in the host country. Within the EEA, this does not apply to

branches of insurance companies having their head office in an EEA Member country. Insurance companies having their head office within the EEA have to submit to the Supervisory Bureau of their home country a report on their insurance business written in another EU Member country but not to the local Supervisory Bureau (in this case, Spain) on a regular basis. It is unlikely that submissions will be required on an irregular basis but the Spanish Insurance Authorities can require submissions in limited circumstances.

Staffing levels

There is no minimum staffing requirement for an EEA insurer operating from a branch in Spain. However, significant new provisions have been introduced in the legislation on protection for the users of financial services in recent years, which means that, on specific occasions, a Client Attention Service Department will need to be established to deal with claims/complaints. In the insurance area, for instance, article 119 of LOSSEAR stipulates that the protection provided by public authorities in the field of private insurance will be governed by the existing legislation on the protection for users of financial services contained in *Act 44/2002, of 22 November, about measures for reforming the financial system and the rules for its implementation*.

The Order ECO/734/2004 specifies the procedures for implementing the provisions required for financial institutions and services to create Client Attention Service Department and envisage the possibility of appointing a Client's Ombudsman. The purpose of all

said devices is to respond to and settle any complaints that may be lodged by the users of financial services in the defence of their interests and legally acknowledged rights.

Consequently, the branches in Spain (not the companies who operate in FoS) are required to create a Client Attention Service Department for all policyholders, insured persons and beneficiaries. In any case, the branches could outsource this Client Service.

Chief Agent/Representative/Reporting Officer/Manager

A branch of an EEA insurer must have a Chief Agent/ Representative/Reporting Officer/Manager but there is no requirement for the Chief Agent/Representative/Reporting Officer/Manager to be ordinarily resident in the branch location. The only condition is that this Representative has sufficient powers under Spanish law to act on behalf of the entity.

The line between FoS and Branches

The line between FoS and branches is that for a branch to be established there must be a permanent office managed by staff of this insurance company or by an independent person but with sufficient powers under Spanish law to act on behalf of the entity (article 55 of LOSSEAR). If there is not this kind of permanent office, they can operate in FoS, directly or through a tax representative. It must be taken into account that a branch must declare Corporate Income Tax in Spain (a company which operates in FoS does not).

B. INSURANCE COMPANIES IN SPAIN, WITH LEGAL HEAD OFFICE IN THIRD PARTY COUNTRIES (NON-EEA COMPANIES)

The Ministry of Economy, Industry and Competitiveness may grant administrative authorization to insurance companies domiciled in third party countries, which are not members of the EEA, to establish branches in Spain with a view of exercising their insurance business. Such companies must have been duly authorized to operate in the insurance classes in which they wish to operate in Spain and must bring a certificate of the supervisory authority of their country, proving that they comply with its legislation, particularly as concerns solvency margins (article 36(a) RDOSEAR).

A general branch must be established with the corporate purpose limited to the insurance business and with permanent residence in Spain. This branch must keep the accounts and documentation of the business to be developed. A provision must also be established and maintained in the Spanish branch, of no less than the share capital or minimum mutual provision required (€9,015,000 in Life Insurance branches, according to article 33.a of LOSSEAR) of Spanish insurance companies; this will be referred to as the permanent provision of the central head office.

A representative must also be appointed, with domicile and residence in Spain. This representative must obtain approval by DGSFP, which may deny approval or, as applicable, revoke it due to failure to meet the requirements needed for those holding administrative roles in insurance companies as demanded by the law.

Once administrative authorization has been granted, the branch and its Universal Representative will be registered on the administrative registry of insurance companies.

The branch may go about its insurance business in Spain as long as its risks are always located and commitments made in Spain (article 37 RDOSSEAR).

INSURANCE TRANSFERS

Transfers of portfolios will be subject to the provisions of articles 103 and 104 RDOSSEAR and, as applicable, prior to granting administrative authorization, will require the certification of the Authority of the Member State of the transferee, stating that it has, considering the transfer, the necessary solvency margin; this certificate must be issued within three months of receipt of the request made by DGSFP and will be considered as having compliance issued if, once these terms have expired, the certificate is not issued. If the transferee is an insurance entity domiciled, or branch established, in a different EEA Member State, parties contracting insurance will have the right to terminate insurance contracts affected by the transfer.

Transfers of portfolios will only be admitted to a branch in Spain of insurance companies domiciled in third party countries when the transferor is a Spanish insurance entity or a branch established in Spain of insurance companies domiciled in other EEA Member State or third party countries. If the transferor is a Spanish insurance entity or a branch in Spain of insurance companies

domiciled in third party countries, portfolio transfers will comply with the provisions of article 100 RDOSEAR.

REVOKING ADMINISTRATIVE AUTHORIZATION

The causes for revoking administrative authorization granted to a branch of an insurance entity domiciled in a non-EEA Member State are the same as the causes of dissolution of a Spanish insurance entity. Moreover, the government can revoke authorization to these branches in application of the principle of reciprocity or when extraordinary circumstances of national interest should dictate so.

The need to safeguard the interests of insured parties, beneficiaries, damaged parties or other insurance companies have to be, in any case, respected in the liquidation affecting branches of foreign companies domiciled in non-EEA Member States whose central head office has been dissolved.

C. NEW ONGOING OBLIGATIONS REGARDING LIVES ASSURED

With regard to the lives assured, ever since the «Council Directive 2004/113/CE implementing the principle of equal treatment between men and women in the access to and supply of goods and services», it is prohibited to conclude any contract for the purpose of insurance and related financial services in which sex is considered as a factor in the calculation of premiums and benefits, that results in differences in the insured persons' premiums and the benefits. This means that Life Insurance premium rates

must not discriminate between men and women based on the sex.

D. HOW TO ADDRESS THE INSURANCE AUTHORITIES (ELECTRONIC MEANS)

On October 2, 2016 Spanish Law 39/2015, of October 1st, on the Common Administrative Procedure applicable to Public Administrations entered into force. This Law newly establish the obligation for certain entities and natural persons to address Public Administrations by electronic means.

Pursuant to article 43 of this, notifications by electronic means will require the appearance at the website of the relevant Administration or Body, using the single enabled electronic address or through both systems, as provided by each Administration or Body.

For these purposes, appearance at the website shall mean the access to the notification of the relevant administrative action through the website of the public body or agency –in our case, the DGSFP website: *<https://www.sededgsfp.gob.es/>*– by the concerned person or his duly identified representative.

On the other hand, article 41 of Law 39/2015 sets out the general conditions for the notification procedure, and states that, irrespective of whether the notification is completed in paper or electronic form, Public Administrations will send a warning message to the electronic device and/or the email address provided by the concerned person letting him know a notification is available on the website of the relevant Administration

or Body or in the single enabled electronic address. Failure to send this warning message shall not prevent the notification from being considered completely valid.

Furthermore, from now on there will only be one single virtual mailbox with no folders to which all the DGSFP notifications for the entities will be sent. Natural persons and/or legal representatives that must have access to such mailbox according to the entities' criteria will have at their disposal all the notifications sent by the DGSFP, regardless of the subject matter.

Accordingly, in order to comply with this regulation entities which have a code in the DGSFP administrative registers must send the following documentation to the IT support address of the DGSFP (oficinavirtual.dgsfp@mineco.es) on a mandatory basis:

1. Electronic certificates of the legal entities' representatives which identify the people who have access to the notification on the website. These certificates are to be issued by any Certification Authority admitted by the DGSFP (<https://www.sededgspf.gob.es/sedeelectronica/faq.asp>) and must guarantee the capacity for action with regard to the DGSFP procedures.

The existence of a single mailbox that grants access to all notifications makes it necessary for all entities to send their updated certificates (even if they are the same as those previously sent).

The requirement of the electronic certificate for the legal entities' representatives is meant to guarantee the implementation of the electronic procedures

required by Law 39/2015, until there is a specific development of such Law for these purposes.

2. Email addresses of the entity to which the DGSFP shall send a warning message whenever there is a new electronic notification.
3. The sender entity or group code in the relevant administrative register must also be stated on a mandatory basis.

In accordance with the existing regulations, the entities or natural persons that are not bound to address the Administration by electronic means may send the information mentioned in the previous paragraphs on a voluntary basis.

The communication of any subsequent changes that affect the email address and the electronic certificate shall be made through the usual IT support address (oficinavirtual.dgsfp@mineco.es).

For all legal purposes, the notifications related to the various formalities that comprise the procedures undertaken by the parties shall be understood as having been made at the moment of the access to its content on the link of the DGSFP website provided for that purpose.

According to article 41 of Law 39/2015, regardless of the medium used, notifications shall be valid provided that they permit verification of their sending or availability, their receipt or access by the concerned person or his representative, their date and hour, their full content and the reliable identity of both the sender and the recipient.

Moreover, whenever the notification by electronic means is made on a mandatory basis or has been explicitly

chosen by the concerned person, it shall be understood to have been rejected if ten calendar days have elapsed since the availability of the notification without accessing to its content, pursuant article 43.2 of Law 39/2015.

E. OUTSOURCING OF INTERNAL FUNCTIONS OR SERVICES

Solvency II Directive¹ (Solvency II) introduces in the Insurance European Regulation the concept of «function» which is an administrative capacity to undertake particular governance tasks. The system of governance includes the risk-management function, the compliance function, the internal audit function and the actuarial function.

The identification of a particular function does not prevent the insurer from freely deciding how to organise that function in practice, save where otherwise specified in Solvency II. This should not lead to unduly burdensome requirements because it should therefore be possible for those functions to be staffed by own staff, to rely on advice from outside experts or to be outsourced to experts within the limits set by Solvency II.

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1. Directive 2009/138/EC of the European Parliament and of the Council, of 25 November 2009, on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II). It was partially amended by Directive 2014/51/EU of the European Parliament and of the Council, of 16 April 2014, amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

According to this, the management of the insurance policies by an entity, insurer or not, other than the insurer that assumes the risk arising from the policies is equivalent to outsourcing under its definition on article 13.28) of Solvency II:

«“Outsourcing” means an arrangement of any form between an insurance or reinsurance undertaking and a service provider, whether a supervised entity or not, by which that service provider performs a process, a service or an activity, whether directly or by sub-outsourcing, which would otherwise be performed by the insurance or reinsurance undertaking itself;»².

In this context, a service provider is a third party and may be a supervised entity, it may or not be an entity from the same group as the insurer and it may be located inside the European Union, as well as outside.

While an outsourcing arrangement may be performed directly by the service provider, the service provider may sub-outsource to another provider if this is permitted by the contract agreed on with the insurer. While an insurer will not be a party to the sub-outsourcing agreement, it ensures that it is informed by the service provider of any sub-outsourcing, because the insurer remains fully responsible for the activity or function outsourced and must ensure the service provided is satisfactorily performed.

In principle, any functions and activities of an insurer can be outsourced, but the administrative management or

2. Same wording on article 13.2 of LOSSEAR.

supervisory board (AMSB) retains ultimate responsibility for discharging its obligations.

Article 67 of LOSSEAR allows the insurer to outsource critical or important operational functions or activities unless any of the following circumstances concur:

- a) Materially impairing the quality of the system of governance of the insurer concerned,
- b) Unduly increasing the operational risk, reducing the capacity of the Spanish DGSFP to supervise the fulfilment of the obligations of the insurer or concern the constant and satisfactory service for policyholders.

Solvency II also establishes in article 49 that outsourcing of critical or important operational functions or activities shall not be undertaken in such a way as to lead to any of the following:

- a) Materially impairing the quality of the system of governance of the insurer concerned;
- b) Unduly increasing the operational risk;
- c) Impairing the ability of the supervisory authorities to monitor the compliance of the insurer with its obligations;
- d) Undermining continuous and satisfactory service to policyholders.

The insurer needs to decide whether or not an arrangement falls within the definition of outsourcing. Generally, for example, where an insurer provides insurance services to its policyholders and certain elements

of the delivery of those services are contracted to a third party, the arrangement is likely to be an outsourcing unless the policyholder has a direct contractual relationship with the third party for the delivery of those services. Any reliance on a third party for functions enabling the insurer to provide those insurance services is also likely to be outsourcing.

However, not every provision of a function or service to an insurer by a service provider will fall within the definition of outsourcing. Hiring a specialist consultant, for example, to provide one-off technical advice or one-off support for an insurer's compliance, internal audit, accounting, risk management or actuarial functions does not normally constitute outsourcing. However, it may become outsourcing if an insurer subsequently relies on that consultant to manage an internal function or service, e.g. when it is installed or becomes fully operational.

While it is not possible to determine a bright line it can be expected that, in broad terms, the more substantial or frequent the advice or service provided by a third party for an insurer is, the more likely it is to fall within the definition of outsourcing.

In order to ensure consistent harmonisation in relation to this issue, EIOPA³ developed technical standards to further specify the conditions for outsourcing, in particular to service providers located in third countries (article 50 Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC

3. European Insurance and Occupational Pensions Authority.

of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)).

In that context, EIOPA issued a Final Report on Public Consultation No. 14/017 on Guidelines on system of governance, in which Guidelines 60 addresses what are to be considered «*Critical or important operational functions and activities*».

In determining whether or not an outsourced function or activity is critical or important the insurer has to take into account any definition or list of such functions or activities provided under national law or national administrative interpretation. Where functions or activities are partially outsourced it is relevant whether these outsourced parts are per se critical or important.

Examples of critical or important functions or activities include:

- a) The design and pricing of insurance products;
- b) The investment of assets or portfolio management;
- c) Claims handling;
- d) The provision of regular or constant compliance, internal audit, accounting, risk management or actuarial support;
- e) The provision of data storage;
- f) The provision of on-going, day-to-day systems maintenance or support;
- g) The ORSA (own risk and solvency assessment) process.

The following activities cannot be considered critical or important operational functions or activities:

- a) The provision of advisory services to the insurer and other services, which do not form part of the insurer's insurance or reinsurance activities, such as legal advice, the training of personnel and the security of premises and personnel;
- b) The purchase of standardised services, including market information services and the provision of price feeds;
- c) The provision of logistical support, such as cleaning or catering;
- d) The provision of elements of human resources support, such as recruiting temporary employees and processing the payroll.

The outsourcing is based on the principle that an insurer has to ensure that it remains fully responsible for discharging all its obligations when outsourcing any function or activities.

In particular, there are strict and rigorous measures an insurer must meet if it outsources a critical or important function or activity, giving proper consideration to the content of the written agreement with the service provider:

1. Insurers shall have written policies in relation to at least risk management, internal control, internal audit and, where relevant, outsourcing. They shall ensure that those policies are implemented (Article 41.3 of Solvency II): The insurer should align all policies required as part of the system of

governance with each other and with its business strategy. Each policy should clearly set out at least:

- a) The goals pursued by the policy;
- b) The tasks to be performed and the person or role responsible for them;
- c) The processes and reporting procedures to be applied;
- d) The obligation of the relevant organizational units to inform the risk management, internal audit, compliance and actuarial functions of any facts relevant for the performance of their duties.

In the policies that cover the key functions, the insurer should also address the position of these functions within the insurer, their rights and powers.

A proper implementation of the written policies requires ensuring that all relevant staff members are familiar with and observe the policies for their respective area of activities. It also requires that any changes to the policies are promptly communicated to them.

Those written policies shall be reviewed at least annually. They shall be subject to prior approval by the AMSB and be adapted in view of any significant change in the system or area concerned.

2. The insurer should designate a person within its company with overall responsibility for the outsourced key function who is fit and proper and possesses sufficient knowledge and experience

regarding the outsourced key function to be able to challenge the performance and results of the service provider (article 67.2 of LOSSEAR): the designated person should be considered as the person responsible for the key function according to Article 42 of Solvency II that needs to be notified to DGSFP.

The fitness of the person with overall responsibility for the outsourced key function at the insurer is assessed taking into account that, while the oversight role carries ultimate responsibility for the key function, the level of knowledge required would not need to be as in depth as that of the relevant person(s) at the service provider. But at a minimum, the person with overall responsibility for the outsourced key function at the insurer has to possess enough knowledge and experience regarding the outsourced key function to be able to challenge the performance and results of the service provider.

3. Insurers shall, in a timely manner, notify DGSFP prior to the outsourcing of critical or important functions or activities as well as of any subsequent material developments with regard to those functions or activities (article 67.3 of LOSSEAR): in its written notification to DGSFP of any outsourcing of critical or important functions or activities, the insurer should include a description of the scope, the rationale for the outsourcing and the name of the person who at the service provider is in charge for the outsourced function in order to enable DGSFP to approach the service provider directly

as appropriate and necessary. The insurer shall be able to demonstrate, at the request of DGSFP, that this person has been assessed as being fit and proper.

DGSPF may oppose the outsourcing within one month from the reception of the notification. The requirement to notify DGSFP presents an opportunity for DGSFP to discuss concerns with the insurer, in case the outsourcing appears not to comply with the provisions of Solvency II and the Delegated Regulation, and the opportunity to object to the outsourcing if supervisory concerns cannot be dispelled.

4. The outsourcing does not entail the breaching of any law in particular with regard to rules on data protection (article 99.5 of LOSSEAR): The service provider shall be responsible for the processing and shall be subject to the same regime provided in Organic Law 15/1999 of 13 December on Personal Data Protection Act and its implementing regulations.
5. A written agreement is entered into between the insurer and the service provider which clearly defines their respective rights and obligations (article 274.3.c) Delegated Regulation): the written agreement shall clearly state, in particular, all of the following terms:
 - a) The duties and responsibilities of both parties involved;
 - b) The service provider's commitment to comply with all applicable laws, regulatory

requirements and guidelines as well as policies approved by the insurer and to cooperate with the insurer's supervisory authority with regard to the outsourced function or activity;

- c) The service provider's obligation to disclose any development which may have a material impact on its ability to carry out the outsourced functions and activities effectively and in compliance with applicable laws and regulatory requirements;
- d) A notice period for the termination of the contract by the service provider which is long enough to enable the insurer to find an alternative solution;
- e) That the insurer is able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of services to policyholders;
- f) That the insurer reserves the right to be informed about the outsourced functions and activities and their performance by the services provider as well as a right to issue general guidelines and individual instructions at the address of the service provider, as to what has to be taken into account when performing the outsourced functions or activities;
- g) That the service provider shall protect any confidential information relating to the insurer and its policyholders, beneficiaries, employees, contracting parties and all other persons;

- h) That the insurer, its external auditor and the supervisory authority have effective access to all information relating to the outsourced functions and activities including carrying out on-site inspections of the business premises of the service provider;
 - i) That, where appropriate and necessary for the purposes of supervision, the supervisory authority may address questions directly to the service provider to which the service provider shall reply;
 - j) That the insurer may obtain information about the outsourced activities and may issue instructions concerning the outsourced activities and functions;
 - k) The terms and conditions, where applicable, under which the service provider may sub-outsource any of the outsourced functions and activities;
 - l) That the service provider's duties and responsibilities deriving from its agreement with the insurer shall remain unaffected by any sub-outsourcing taking place according to point k).
6. When choosing the service provider for any critical or important operational functions or activities, AMSB shall perform a detailed examination in order to ensure that the service provider fulfils all requirements (article 274.3 Delegated Regulation). AMSB of the insurer shall ensure that:

- a) The potential service provider has the ability, the capacity and any authorisation required by law to deliver the required functions or activities satisfactorily, taking into account the insurer's objectives and needs.
 - b) The insurer should apply the fit and proper procedures in assessing persons employed by the service provider or sub-service provider to perform an outsourced key function.
 - c) The service provider has adopted all means to ensure that no explicit or potential conflict of interests jeopardize the fulfilment of the needs of the outsourcing insurer.
 - d) The service provider is subject to the same provisions on the safety and confidentiality of information relating to the insurer or to its policyholders or beneficiaries that are applicable to the insurer.
 - e) The service provider has the necessary financial resources to perform the additional tasks in a proper and reliable way, and that all staff of the service provider who will be involved in providing the outsourced functions or activities are sufficiently qualified and reliable.
 - f) The service provider has adequate contingency plans in place to deal with emergency situations or business disruptions and periodically tests backup facilities where necessary, taking into account the outsourced functions and activities.
7. Reporting, on manner and timing planned, of the outsourcing policy (articles 294 and 308

Delegated Regulation): the solvency and financial condition report shall include a description of the outsourcing policy of the insurer, that insurer's outsourcing of any critical or important operational functions or activities and the jurisdiction in which the service providers of such functions or activities are located.

Additionally the regular supervisory report shall include all of the following information regarding outsourcing:

- a) The rationale for the outsourcing and evidence that appropriate oversight and safeguards are in place;
- b) Information on the service providers to whom any critical or important operational functions or activities have been outsourced and on how the insurer ensures that the service providers comply all the requirements;
- c) A list of the persons responsible for the outsourced key functions in the service provider.

F. SPECIAL REGULATORY TREATMENT FOR UNIT LINKED PRODUCTS

Since the entry into force of Solvency II, the Spanish Insurance Law has abandoned the concept of a closed list of assets to cover technical provisions, so currently there are no restrictions limiting the category of assets you may invest in as an insurer, although adequate asset selection shall impact the capital charge.

Upon considering a unit linked from the point of view of insurance, it has to fulfil the following requirements, as a minimum:

- The policyholder of the insurance has to assume the risk of the investment,
- The operation has to be based on an actuarial technique. Should it lack this requirement, the operation shall not be insurance.

As a consequence, and providing that the previous requirements were fulfilled, there would be no legal impediments for the policyholders to select the assets themselves.

A different matter is the fiscal treatment that shall apply to the unit linked. Article 14.2.h) of Law 35/2006, of 28 November, of Income Tax, determines that the contributor does not have to file the annual tax return on the incomes generated through life insurances contracts in which the policyholder assumes the risk of the investment only when the policy does not grant the policyholders the faculty to modify the investments.

It could happen that from an insurance regulative point of view the operation is a unit linked, and from a fiscal point of view, it shall lose the tax deferral, so that the policyholders would have to pay annual tax returns on the difference between the effective value of the assets linked to the policy at the end and at the beginning of the year.

Valuing illiquid or suspended assets.

The Spanish insurance legislation does not contemplate the possibility that an asset becomes illiquid or that its

quote becomes suspended, so it is the policy that has to foresee these possibilities and set the rules and means to solve such situations.

If one of these situations arises, the parts should follow the rules set in the policy to replace the illiquid or suspended asset to another equivalent in rating, duration and category so that the balance between the premium and the benefit is maintained.

If it were not possible to solve the situation, either party could terminate the contract, in which case common law would be applicable in order to resolve any disputes.

Fund closures

It is common practice in Spain that policies regulate the situation where the company closes a fund, setting the options, consequences and rules to switch off the investment to other fund(s). However, there is no legal rule which implements it. In the event that the fund closure occurs without specific regulation on the policy, the policyholder shall have to accept either switching to another fund or the surrender of the policy.

Calculation method of the economic rights

Article 124.1.f) of RDOSSEAR establishes that before signing a life insurance contract, like the unit linked, the insurance entity has the obligation to provide the policyholder, among other elements, with an informative note that contains in a clear and precise manner the surrender value of the policy. However, in the event that this value cannot be determined exactly in the moment

of the policy signing, the entity shall have to specify its calculation method as well as its minimum value.

With the same intention of protecting policyholders, article 3 of Insurance Contract Act requires that the insurance policy is written in clear and precise manner, which guarantees the necessary transparency.

The Civil Code, which in this case operates as supplementary law, also regulates the effects of the lack of clarity in the contracts. According to article 1.288 that the unclear clauses of a contract will not have to benefit the party that causes the Obscurity. Concerning insurance contracts, it shall always be assumed that the obscurity is caused by the insurance entity, which is the one that writes the content of contract.

Taking all this into account, we may conclude that the insurance entity has the obligation to report to the policyholder, even before entering the contract, the calculation method of the economic rights that the policyholder may be entitled to during the whole life of the policy, which includes both the possible surrender values and maturity value. Therefore, for example, a list of common criteria would never be considered sufficient to identify the assets or funds where the entity invests the premiums. The key and sufficient legal issue is to inform about the calculation method of the economic rights.

The philosophy underneath is that the policyholder has to be able to verify if the quantity received in case of surrender or maturity of the contract, once the expenses defined in the policy are deducted, is the correct one, according to the agreement reached with the insurance entity and defined in the contract.

This is the criterion followed by the Spanish Directorate General of Insurances and Pension Funds (DGSFP) and which has solved the claims raised by the users of Life Insurances in numerous occasions. All in all, the quantification of the surrender value and the maturity value cannot be subordinated to an «act of faith» through which the policyholder has to accept the values that the entity determines.

In conclusion, it may be considered an unnecessary requirement that the policy and the previous informative note must specify each and every one of the assets or funds in which it invests each of the bags of assets or options included in the «unit-linked», as long as both the previous note and the policy already contain in a clear and precise manner the formula and the methods of calculation that allow the policyholder to know at all times the value of the economic rights derived from the contract.

Common practice in Spain regarding predetermined list

The commercial practice in Spain in relation to the unit linked is very polarized. Many policies include individualized lists of the assets in which the premiums are invested. By contrast, other policies whose surrender or maturity values depend on formulae indexed to financial determinable concepts like could be the IRR of the market in a certain moment.

Additionally, a widespread recent practice in the commercialization of savings insurances (not only in unit linked policies but also in other modalities) is that the surrender value is indexed to the «value of market» of the assets linked to those policies that do not include a

sufficient detail of them. This is against the criterion of the DGSFP as it is considered an opaque insurance practice and therefore contrary to article 105 ROSSP and to article 3 of the LCS, previously mentioned.

Nevertheless, a common element in the majority of the unit linked policies signed in Spain is that they recognize surrender values in favour of the policyholders at different moments of the life of the insurance.

Expanding the available assets to equities or bonds

Could the insurer allow the Policyholder to choose the assets that were not on the predetermined list, i.e. equities and direct securities? The Policyholder would be informed that this would mean they would no longer be in qualifying unit linked policy and must file (and pay) annual tax returns.

A «unit-linked» has to fulfil the following requirements, as a minimum:

- the policyholder of the insurance assumes the risk of the investment,
- the operation has to be based on an actuarial technique. Should it lack this requirement, the operation shall not be an insurance. Thus its commercialization shall be prohibited for insurance entities (article 5.1.a) of LOSSEAR.

As a consequence, and providing that the previous requirements were fulfilled, there would be no legal impediments for the policyholders to select themselves the assets.

A different matter is the fiscal treatment that shall apply to the policy. Article 14.2.h) of Law 35/2006, of November 28, of Income Tax, determines that the contributor does not have to file the annual tax return on the incomes generated through life insurances contracts in which the policyholder assumes the risk of the investment only when the policy does not grant to policyholders the faculty to modify the investments.

From an insurance regulative point of view, the operation is a unit linked. However from the fiscal point of view, it shall lose the tax deferral, so that the policyholders would have to pay annual tax returns on the difference between the effective value of the assets linked to the policy at the end and at the beginning of the year.

In all kind of Life Insurances, the insurer has to inform the policyholder about the tax system applicable to the policy. This information has to be included both in the informative note and in the policy (article 124.1.j) of RDOSEAR).

In the event that the policyholder were given the power to select assets not included in the predetermined list of qualifying assets, the insurer has to inform the policyholder that he will have to file and pay annual tax returns on the difference between the effective value of the assets linked to the policy at the end and at the beginning of the year.

The loss of this fiscal incentive makes the commercialization really unattractive, so it is not a common practice. In any case, from the regulative point of view of insurance no other consequences on policyholders are appreciated due to the fact that the policyholder selects the assets in which premiums have to be invested.

Rules on International Insurance law

RULES ON INTERNATIONAL INSURANCE LAW

According to article 107 of Insurance Contract Act, Spanish law pertaining to insurance contracts shall apply to insurance against damages (non-Life Insurances) when referring to risks located on Spanish territory if:

- The policyholder has their main residence in Spain and is a natural person,
- Being a legal entity, with corporate domicile (or administrative or managerial head office) in Spain,
- The contract is stipulated in fulfillment of an obligation to be insured required by Spanish law.

In cases where large risks are insured, parties to the insurance contract may choose the applicable law.

Apart from these cases, the law applicable to the insurance contract covering damages will be determined in compliance with special rules:

- When risks are located on Spanish soil and the policyholder does not have their main residence,

corporate domicile or administrative or managerial head office there, the parties may choose between the application of Spanish law or the law of the State in which the policyholder has said residence, corporate domicile or effective address.

- If the policyholder is a business person or professional and the contract covers risks connected with their business in different European Economic Area States, the parties may choose between the laws of any of the States in which the risks are located or that in which the policyholder has their residence, corporate domicile or administrative or managerial head office.
- When the coverage of risks located on Spanish soil is limited to losses that may occur in an EEA Member State other than Spain, the parties may choose the law of that State.

In relation to Life Insurance, article 108.1.a establishes that if the policyholder is a Spanish citizen or a person with residence in Spain, the Spanish Insurance Contract Act must be applied. However, in the case that policyholders are citizens of the EEA, they can agree with the insurer to apply the law corresponding to the policyholder's nationality. Therefore, if the policyholder and the insurer agree to apply the law of the policyholder's nationality, the Spanish Insurance Contract Act must not be applied.

Spanish Law will also apply to collective life insurance contracts concluded in compliance with or as a result of work subject to Spanish law.

Special reference to some relevant questions in relation to reinsurers from third countries (non-EEA)

Article 64 of LOSSEAR states that reinsurers from third countries can accept risks in Spain from the country its head office is registered, but not from subsidiaries located outside of Spain, even if they are established in the European Economic Area.

Spanish insurance legislation does not determine any limits for ceding risk through reinsurance contracts. However, to obtain an authorisation as an insurer a scheme of operations has to be submitted in which the guiding principles as to reinsurance shall be included (articles 22 and 32 of LOSSEAR and article 11 of RDOSSEAR).

Additionally, article 66 of LOSSEAR states that: «insurers shall establish an effective risk management system that will include strategies, processes and reporting procedures necessary to identify, measure, monitor, manage and report, on a continuous basis the risks that single-level and added, are or could be exposed, and their interdependencies.

This system of risk management must be effective and shall be well integrated into the organizational structure and the process of decision making of the organization, and give due consideration to the people who run effectively or exercise the functions that make up the system of government.

Insurers establish a risk management function to facilitate the implementation of risk management system.

As part of its risk management system, insurers shall conduct an internal assessment of risk and solvency periodically and, in any case, immediately after any significant change in their risk profile.

Internal risk and solvency assessment shall be an integral part of the business strategy and shall be taken into account on an ongoing basis in the strategic decisions of the company.

Insurers have to communicate to DGSFP the results of each own risk and solvency assessment, in the terms determined by the regulations.

This written risk management system has to be approved by the administrative management or supervisory board (AMSB).

As part of the system of governance, insurers shall provide for an effective actuarial function to, among other activities, express an opinion on the adequacy of reinsurance arrangements (article 47(h)er of RDOSEAR)¹.

1. Same wording on article 48 of the Directive 2009/138/EC of the European Parliament and of the Council, of 25 November 2009, on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), partially amended by Directive 2014/51/EU of the European

There is no special treatment if the reinsurer is a related company.

According to the Annual Report of DGSFP, the amount of risk transfer on reinsurance in Spain has been quite stable in recent years, reaching the level of 10% on direct premiums plus reinsurance accepted. Differentiated by type of insurance, the cession in Life Insurance has been around 4%, and 13% in non-Life Insurance.

The Authorisation as reinsurer in Spain shall be granted for non-life reinsurance activity, life reinsurance activity or all kinds of reinsurance activity.

Articles 61 and 63 of LOSSEAR determinate the procedure by which the Spanish Minister of Economy, Industry and Competitiveness may authorize reinsurers from third countries, not members of the European Economic Area, to set up subsidiaries in Spain, provided that they meet the following requirements listed on article 36 of RDOSSEAR:

- a) To be found duly authorized to operate in its country in the class of insurance in which it intends to act in Spain. To this end, it must provide a certificate issued by the authority exercising control over the insurance business in the country indicating the dates on which the reinsurer was authorized to operate in each of the classes and the

Parliament and of the Council, of 16 April 2014, amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).

risks which it actually covers and attesting which it is incorporated and operates in its country of origin in accordance with its legislation.

Risks guaranteed must always be located and its commitments in Spain, without having them to apply the rules concerning the activity under the right of establishment and freedom to provide services.

- b) To establish a general subsidiary whose purpose is limited to the reinsurance business, with permanent residence in Spain, where the accounts and records kept by the activity it carries are preserved.

It must be provided strong evidence of the document by which the subsidiary is established, duly registered in the Spanish Commercial Register (*Registro Mercantil*).

- c) To designate a general representative, resident and domiciled in Spain with the wider commercial powers to bind the reinsurer against third parties and to represent it before the Spanish courts and administrative authorities.

The general representative shall meet the fit and proper requirements for persons who effectively run the reinsurer or have other key functions, under article 38 of LOSSEAR and article 18 of RDOSSEAR.

- d) To provide and maintain assets for amounts equal to €3,600,000 and deposit 25% of it as security available to DGSFP.

- e) To evidence that the reinsurer has a fund amount not less than €2,103,000 in Spain.
- f) To commit to cover the Solvency Capital Requirement and the Minimum Capital Requirement provided for in the Administrative and Supervision Act.
- g) To submit and comply with a scheme of operations which must contain directions or complete and adequate justifications, at least, relating to:
 - 1. The reasons, causes and objectives of the project presented,
 - 2. Classes of insurances the reinsurer intends to assume, stating the nature of the risks or commitments which it proposes to cover, as well as the conditions and characteristics of the products,
 - 3. The guiding principles and geographical scope,
 - 4. The structure of the organization, including internal control procedures established.
 - 5. Marketing systems,
 - 6. Advertising media,
 - 7. System of governance,
 - 8. Means to cover the economic, financial and solvency requirements and to provide assistance, if commit,
 - 9. The eligible amount of basic own funds required to cover the absolute floor of that Minimum Capital Requirement,

10. Classes of reinsurance arrangements that are proposed with ceding insurers. Reinsurance plans so that relate to its economic capacity for adequate technical and financial balance of the reinsurer,
11. Expenditure estimates for setting up the administrative services and marketing systems, and the financial resources intended to meet those costs,
12. Mechanisms adopted for addressing and resolving the complaints and claims of policyholders, insured, beneficiaries and associations,
13. Procedures and adequate internal control bodies and media to forestall and prevent operations related to money laundering, under the conditions laid down in the applicable rules operations.

In addition to the above, the scheme shall include for the first three financial years:

1. A forecast balance,
2. A projected cash flow statement,
3. On the basis of the forecast balance sheet, estimates of the future Minimum Capital Requirement and the future Solvency Capital Requirement, as well as the calculation method, assumptions and rationale and, where appropriate, other financial and accounting statements used to derive those estimates,

4. Estimates of the financial resources intended to cover the Solvency Capital Requirement and the Minimum Capital Requirement,
- h) Complying with the provisions in relation to the system of government of the subsidiary on the Spanish legislation,
- i) To provide the statutes by which the reinsurer is governed, as well as relationship managers, directors and those who under any title with the effective management of the reinsurer, including the name, address and nationality,
- j) Accompanying the certificate of the supervisory authority of the country of origin certifying that the reinsurer has the Solvency Capital Requirement and the Minimum Capital Requirement required by the legislation and that the technical provisions are properly calculated the date of issue,
- k) Commitment to abide by the Spanish laws.

The application and the accompanying documents, as well as any accounting and supporting documents, shall be submitted in Spanish. However, they may be submitted in the official language of the country of the reinsurer provided that is accompanied by a certified translation into Spanish.

The maximum period to resolve and notify the resolution procedure is six months. Should this period ends without notified express resolution, it shall mean that the request is rejected.

Once the administrative approval is granted, the subsidiary general manager and those persons exercising effective management shall be entered in the administrative register on DGSFP.

With regard to subsidiaries of reinsurers from third countries, financial guarantees, shall apply the following requirements (article 38 of RDOSSEAR):

- a) For the purpose of calculating the Solvency Capital Requirement and the Minimum Capital Requirement only the operations performed by the subsidiary shall be taken into account.
- b) The amount of eligible own funds necessary to cover the Minimum Capital Requirement and the absolute floor of that Minimum Capital Requirement shall be constituted in accordance with the Spanish insurance legislation.

The amount of basic own funds shall not be less than €1,800,000.

Solvency position in relation to ceding risk:

Article 51 of RDOSSEAR states that amounts recoverable for ceded reinsurance may be counted among the assets of the insurer. These amounts are valued in accordance with the technical provisions for direct insurance and accepted reinsurance, with the following specific rules:

- a) The time difference between recoveries and direct payments should be considered.

- b) The result of the calculation shall be adjusted to take account of expected losses due to default of the counterparty. The adjustment is based on an assessment of both the probability of default of the counterparty and the average loss resulting.

Article 21.2 of LOSSEAR states that the reinsurance business has to be exercised in full separation from policyholders and the insured.

Consequently, reinsurance agreements, made between the direct insurer and reinsurers shall not affect the insured, who may, in any case, demand full compensation from the insurer.

Neither the policyholders nor the insured can demand compensation, or any benefits, directly from the reinsurer. In case of voluntary or forced liquidation of the insurer, the insured shall enjoy special privilege on the credit balance to dispose of the insurer to the reinsurer (articles 77 and 78 of Insurance Contract Act²).

Contractual conditions and model policies, premium rates and technical bases are not subject to administrative authorization nor must be regularly filed to the Spanish Insurance Bureau (DGSFP)³, under article 95 of LOSSEAR. Nevertheless, DGSFP may require the filing, whenever it deems it pertinent, of model contracts, premiums and any other documents related to reinsurance activity, to control if they respect actuarial principles and the provisions on the insurance and reinsurance legislation. This requirement shall never be a precondition for the

2. Law 50/1980 of 8 October on Insurance Contracts Act.

3. Dirección General de Seguros y Fondos de Pensiones.

exercise of its activity. Reinsurers shall make available to DGSFP this documentation in its head office.

It is important to emphasize that article 94 of LOSSEAR transposes Council Directive 2004/113/EC Implementing the Principle of Equal Treatment Between Men and Women in the Access to and Supply of Goods and Services to the Spanish insurance legislation establishing that calculating premium rates no difference can be made in the treatment between men and women in premiums and benefits for insured persons, when the same view sex as a factor in the calculation. In any event, costs related to pregnancy and childbirth justify differences in premiums and benefits of persons considered individually.

Solvency II regulation, which has amended the legislation on insurance, does not include any disposition on that which alter the process for extracting reinsurance premiums out of the European Economic Area.

There is no explicit restriction on insurance regulation that prevents the policy is denominated in a currency other than euro.

Concerning the payment of the premium directly to a bank account outside of Spain, article 1.2 of Law 19/2003 of 4 July on the Legal Regime of Movements of Capital and Economic Transactions Abroad establishes that acts, businesses, transactions and operations between residents and non-residents which involve or whose performance may arise foreign receipts and payments as well as transfers to or from abroad and variations in accounts or financial debtor or creditor positions abroad are free with no limitations other than those specified in this law and sector specific legislation.

However, article 3 literally states that:

1. *The acts, businesses, transactions and operations referred to in paragraph 2 of article 1 must be declared by obligated parties in the manner and deadlines determined by regulation for the purposes of management information and statistics on operations.*
2. *Natural or legal resident or non-resident in Spain who perform the operations indicated in paragraph 2 of article 1 are obliged to provide the Ministry of Finance and the Spanish Central Bank, in the manner and deadlines established, the data required.*

In addition, credit institutions, businesses of investment services and other financial intermediaries involved in the conduct of operations mentioned, on behalf of their customers, shall be obliged to submit to the Ministry of Economy and the Spanish Central Bank the information for the transactions of their clients, in the manner and deadlines established.

The payment of claims can be paid in other currency different to euros whenever this option is defined either in the previous information note delivered to the policyholder and in the policy.

There is not any restriction on insurance legislation that prevents paying claims from a bank account held by insurer sited abroad.

The requirements pointed out in the point above on movements of capital and transactions abroad shall apply to these payments.

In principle, there is no regulatory impediment to the reinsurer initiate local advertising campaigns to raise

awareness of the arrangement and drive sales leads, provided that all the following requirements, included on article 98 of LOSSEAR and article 127 of RDOSEAR, are fulfilled:

All publicity involving the offer of private insurance in addition to comply with the general legislation on advertising shall transmit to the recipients an accurate, efficient and sufficient information on the essential characteristics of the operation, service or insurance product and, at least, will meet these two requirements:

- a) Identification of the insurer that assumes coverage of the risks or commitments sufficiently highlighted by trademarks or unless these can be misleading, in which case the company name will be used names.
- b) Indication of the class of insurance contract is offered.

It will be considered advertising on insurance every form of communication which offers insurance operations or information about them is disclosed, whatever the means used to it, including circular and personalized letters that are part of a publicity campaign.

The advertising of insurers is not subject to regulatory approval, or should be subject to prior systematic referral to use DGSFP, although insurers which intend to expensive advertising campaigns or broader scope dissemination may consult to DGSFP prior to the start. These consultations will be resolved within a maximum period of fifteen days.

In any case, all advertising shall be available at all times to supervision by the DGSPF.

CLAIMS MANAGEMENT

The Spanish regulation on insurance does not require that the cost of claims will have to be proved through neither original invoices nor technical reports. The insurers are empowered to determine by policy what documentation has to be provided by the policyholder in the case of a claim. Nonetheless, article 16 of Insurance Contract Act states that *«the policyholder or the insured shall provide the insurer with all sorts of information about the circumstances and consequences of the claim. In case of violation of this duty, the loss of the right to compensation will only occur in the event of willful misconduct or gross negligence»*.

There is a limitation to this faculty because article 31.3 of Law 3/1991 of 10 January on Unfair Competition considers unfair by aggressive demand to the policyholder, beneficiary or injured third party that wishes to claim compensation under an insurance contract, the presentation of documents which are not reasonably necessary to determine the existence of the claim and the amount of damage resulting from it or leave unanswered systematically about the correspondence, in order to dissuade him from exercising their rights.

The written policy on risk management, approved by the administrative, management or supervisory board, shall contain the basic principles governing the justification of claims, insofar as they may affect to the operational risk of the insurer.

Notwithstanding this, it is common practice in the Spanish insurance sector to introduce clauses in order

to reserve its right to request the original invoices from customers for a period of 5 years⁴. The purpose of these clauses is to prevent or reduce as far as possible fraud by the insured.

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4. Legal actions arising from the insurance contract expire after a period of five years in case of personal insurance, such as health insurance (article 23 of the Insurance Contract Act).

II. Portugal

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Legal overview and framework

1. INTRODUCTION

Law No. 147/2015 of 9 September entered into force on 14 September with effect deferred on 1 January, with the exception of articles 8 and 14 both with effect on the date of entry into force. This Law transposed to Portuguese juridical order the Parliament and Council Directive 2009/138/CE of 25 November 2009 (Solvency II) object of successive amendments, last one made by the European Parliament and the Council Directive 2014/51/EU of 16 April (Omnibuss II), approving the new Juridical Regime of Access and Conduct of Insurance and Reinsurance Business (JRAIR) including the associated sanctions framework.

The new Law repeals the previous provisions contained in Decree-Law No. 9-/1998 of 17 April replacing it with the JRAIR and simultaneously approves the procedural rules applicable to insurance sector and pensions funds crimes and infractions which processing is Member of the Supervisory Authority for Insurance and Pension funds' responsibility and also change: (i) the system of

incorporation and operation of pension funds and of their managing institutions; (ii) the Decree-Law No. 40/2014 of 18 March concerning over-the-counter derivatives, central counterparties and trade repositories; (iii) legal regime of Insurance contract.

The JRAIR regulates and reformulates (i) the access and conduct of insurance and reinsurance business; (ii) the supervisions of insurance groups and reinsurance groups; (iii) the insurance and reinsurance companies recovery; (iv) and the insurance undertakings.

The Portuguese law, following the community directive Solvency II, regarding the exercise of the right to establishment and the freedom to provide services with regards their access and conduct conditions, establishes procedural steps and distinct conditions in the access and conduct of the insurance business be under the right of establishment or the freedom to provide services. With regard to the later point, the new law like the previous one distinguishes the conduct approach in case of insurance company with head office in another European Union Member State or branches of insurance companies with head office in a third country.

As it will be seen, the free movement, corollary of the European single market, had impact in the insurance business giving rise to what is called by “insurance single market” contributing on a large extent to the freedom to provide insurance and reinsurance services inside the European Union area.

Despite the “insurance single market” being still far from complete, the great effort in harmonising the legislation is remarkable.

In the growth background of “insurance single market” it has to be realised the scheme under which the company with head office in another Member state can exercise, under the freedom to provide services its business in Portuguese territory. The aim is to answer the following questions:

- What are the access conditions to insurance activity under the freedom to provide services?
- What are the conduct conditions of insurance activity under the freedom to provide services?
- Which entities are responsible for the supervision of a company carrying on insurance activity under the freedom to provide services?

2. DIRECTIVE 2009/138/EC OF THE PARLIAMENT AND OF THE COUNCIL OF 25 NOVEMBER 2009 (SOLVENCY II)

The freedom to provide services in the European internal market also affects, as it should be, the Insurance Law and the insurance and reinsurance business carried out by the companies within the European Union.

The concern for harmonizing the national legislation on insurance is present, strictly speaking, since the 70s. In fact, the first EU’s directive date back to 1973 and was intended, already at that time, the freedom establishment right of insurance companies that exert activity in non-Life.

Since then, the community actions in insurance matter were intensified and could be divided into three main stages.

In a first phase, the European legislative concern focused on the realization of the right of establishment and on the harmonization of procedures for control and prudential supervision.

In a second phase, overtaken the issue of the right of establishment, the attainment of freedom to provide services were sought as a central pillar of the common market.

In a final stage, the aim was to complete the community legal framework by coordinating the main rules regarding the prudential supervision and financial supervision of insurance and reinsurance business. Thus, it is in the context of this third phase that arises the Directive 2009/139/CE of the parliament and of the council of 25 November concerning the access to the insurance and reinsurance business and its exercise also called Solvency II.

In order to carry out a reform of the various European directives of the sector that as time went on were being approved, the Solvency II Directive reformulated the various legislative instruments compiling to a single directive the guidelines applicable to all member states.

Therefore, the Solvency II Directive is an essential instrument to the realisation of the internal market seeking to provide the necessary harmonisation for the freedom of establishment and freedom to provide services by insurance companies and reinsurance previously authorized to carry out activity in a given Member State.

By strengthening the rules relating to the prudential and financial supervision of the insurance companies that

exercise their activity in any European Union territory, the Solvency II has confirmed those that have been ongoing concerns regarding “single insurance market”: the protection of policy holders and the stability of financial markets.

It is considered an extensive instrument with high-density standards which transposition to the Portuguese law is now to be found in Law No. 147/2015 of 9 September.

3. FREE PROVISION OF SERVICES

In insurance activity “free provision of services” in the European Union consists in the operation through which an insurance company covers or assume from its head office or through a branch based in the territory of one Member State, a risk or a coverage situated or assumed in the territory of another Member State. In other words, insurance activity under the free provision of services may occur in two different situations:

- Insurance or reinsurance company licensed (head office) in a Union Member State provides insurance or reinsurance business from its head office in territory of another Member State.
- Insurance or reinsurance company licensed in a third country (head office), having however an establishment (branch) in the territory of a member state, pursues insurance or reinsurance activity from this branch in the territory of another Member State.

As mentioned earlier, the free provision of services it is an implementation of the freedom of movement as a corollary of the single European market.

The free provision of services is characterized as well by no need of stable establishment in the Union Member State where they intend to cover the risk or commitments, providing that the insurance company is already holding an activity in any Member State of the European Union, and established there through a head office or a branch.

3.1. WHAT ARE THE CONDITIONS TO HAVE ACCESS TO AN INSURANCE ACTIVITY IN FREE PROVISION OF SERVICES?

First of all, it should be noted that the access to an insurance activity or reinsurance activity regulated by the Act nº147/2015, 9 September, should not affect the rights acquired by the insurance companies and reinsurance companies based in other Union Member States that provides their activity in Portuguese territory in free provision of services, that are submitted to the regime of the activity establishment in force.

The new act defines explicitly that the insurance or reinsurance activity carried on in Portugal and in the regime of free provision of services can only be exercised by insurance companies or reinsurance companies based in another Union Member State since they accomplish the requirements required by the Directive 2009/138/CE, of 25 November of the European Parliament and Council. Therefore, the access to an insurance activity

or reinsurance in any Union Member State remains dependent on a previous and single authorization.

The regime of a single authorization although based in the principle of needing of an administrative authorization requires a pre-condition to have access to an insurance activity and his exercise.

However, the referred authorization should be single and previous and valid for all the European Union Member States.

The authorization should be asked to the supervision authorities of the Union State Member where the company is established and should refer the nature of the insurance risks and commitments that the company is willing to cover.

The authorization conditions are referred in the national legislation of the Union State member, which authorization is required, being certain that those conditions are also appear on Directive 2009/139/CE of the European Parliament and Council, which means that the legislation was already transposed to the legal framework of the different European Union State Members.

In this sense and answering to the question asked before, the condition to have access to an insurance activity is primarily obtained by a previous authorization of the home Member State.

Once this authorization is obtained for the exercise of the insurance activity or reinsurance in a specific Member State, it is possible to the insurance or reinsurance company to establish in the territory of another State

Member, throughout a branch or free provision of services out of the principal or secondary establishment based on the home Member State.

In other words and giving a practical example: an insurance company A, authorized by the Spanish supervisory authority to exercise their activity in Spain can also exercise the activity in Portugal throughout a branch or free provision of services.

Regarding the free provision of services, the insurance or reinsurance company that wishes to exercise the activity for the first time in the territory of another Union Member State should notify the supervisory authority of the home Member State referring the nature of the insurance risks and commitments that wishes to cover.

The supervisory authority should evaluate the company situation and if it doesn't exist any obstacle in terms of financial stability the authority should notify the other authority of the Member State of which market the company aims to explore.

The supervisory authorities of the home Member State will notify the authorities of the other State Members in which territories the insurance company wishes to exercise their activities under the free provision of services.

This means that it is only required a simple notification from the supervisory authority of the home Member State to the supervisory authority of the target market of the other Member State.

We should emphasize that any change that an insurance company wishes to introduce in their activity namely changing the nature of the insurance risks or

commitments that wants to cover should be subject to the procedures referred above.

After receiving the notification from the supervisory authority of the home Member State of the insurance company that wishes to exercise their activity, the Supervisory Authority for Insurance and Pension funds (SAIP) – autoridade de supervisão de seguros e fundos de pensões (ASF) – is the Portuguese regulator when Portugal is the host Member State – informs the supervisory authority of the home Member State about the conditions that the company should comply regarding to the exercise of the insurance activity.

3.2. WHAT ARE THE CONDITIONS TO EXERCISE THE INSURANCE AND REINSURANCE ACTIVITY IN FREE SERVICE PROVISION?

Concerning the conditions to exercise the insure activity in Portugal, in free provision of services by insurance companies with head office or branch authorized by the territory of other Member State, Directive No. 47/2015 of 9 September, requires general conditions to exercise, on the one hand, and specific conditions for some insure species, on the other hand.

The general conditions to act are called “conditions based in reasons of general interest”, that should be communicated by SAIP to the supervisory authority of the home Member State, within two months from the date of receipt of the communication of the latter entity informing that one certain insure or reinsure company pretends to exercise activity in Portugal.

The conditions based in reasons of general interest mentioned above should include the exercise of the insurance and reinsurance activity in Portugal that are disclosed on SAIPs' website and are relate, in particular, with market conducts, treatment policy, advertising and consumer protection. Without prejudice to any other conditions that the SAIP will consider indispensable, are always considered as policies founded on reasons of general interest as set out in Chapter IV of Title III of Law No. 147/2015 of 9 September, namely:

- Adoption of the following market conduct;
- Definition of the treatment policies;
- Communication to SAIP about the conventions, protocols and other agreements between insurance companies, insured persons, beneficiaries or injured third parties;
- Placing of advertising made by the insurance company to the SAIPs' specific regulations, and in the case to the insurance linked to investment funds of the Portuguese Securities Market Commission (CMVM);
- Institution of an independent function responsible for managing complaints;
- Designation of a client provider to which the policyholders, insured persons, beneficiaries and injured third parties may submit complaints;

As general condition of service, the insurance companies based in another Member State operating in Portugal in free service provision, still requires the participation in national guarantees systems. In other

words, the companies that intend to operate in Portugal should join and contribute in the same conditions as the national insurance companies for any scheme designed to guarantee the payment of any compensation to the insured persons and injured third parties, particularly with the regard of the risks associated with work accidents, occupational diseases and civil liability for land motor vehicles, excluding the latter carrier's liability. For the effect, the insurance company concerned should ensure the legally provided contributions to Workers Compensation Fund (FAT) and to the Motor Insurance Guarantee Fund (FGA). This imposition was a result of the previous Decree-Law n°9-/98, of 17 April.

Finally, it has to be noted that the insurance company based in another Member State that carries activity in a system based on free provision of services in Portugal should present to SAIP all the documents related with the activity every time is requested to do so.

While regarding the amounts of insurance premiums, the SAIP will request to the supervisory authority of the home Member State information about the prize amounts, claims and commissions without deduction of reinsurance by business classes of the branch "non-Life" and for each branch of "non-Life" business class. Regarding to what is termed "special conditions of exercise" as avail above, these will vary depending on the kind of risks which it is intended, or the insurance branch whose activity will be exercise.

A. Risks whose coverage is mandatory

Whenever the companies pretend to cover in scheme of provision service, risks whose coverage is mandatory are

imposed on the appointment of a claims representative, duly communicated to the SAIP, including the indication of the name and the address.

The claims representative besides having to gather all the necessary information related to the compensation procedures should be habitually resident or be established in Portugal, and have sufficient powers to:

- i) Represent the company along the casualties;
- ii) Represent the company, or represent, to the courts and the Portuguese authorities with regard to claims for compensation.
- iii) Represent the insurance company in front of the SAIP with regard to control the existence and validity of the insurance policies and their registration.

A1. Compulsory motor third party liability insurance

In cases of the lack of nomination of the delegate to which it was referred above, his functions are taken with regard to the risks involved in the use of motorized land vehicles by a specific representative selected in Portugal by the insurance company. The representative will be responsible for the processing and settlement in the country of residence of the injured third party in respect of the use of motor vehicles occurred in a distinct State of his residence.

In addition to the conditions identified above, the insurance companies that wish to sell, in free provision of services, in Portuguese territory, the Compulsory motor third party liability insurance must, according with the article 243º of the law nº 147/2015, of 9 September:

1. LEGAL OVERVIEW AND FRAMEWORK

- i) Submit to the SAIP a statement in Portuguese demonstrating that the company became a member of the Portuguese Office of the green card;
- ii) Submit to the SAIP a declaration of commitment that will provide the necessary elements to allow the competent body to meet within 10 days, the name of the insurance company of a vehicle involved in an accident;
- iii) Comply the rules of aggravated risks that are applicable to authorized insurance undertakings.
- iv) Ensure that people who claim damages arising from accidents on Portuguese territory are not placed in a less favourable situation if such coverage was carried out through an insurance undertaking established in Portugal.

B. Insurance and operations linked to investment funds

The insurance company that markets insurance and operations linked to investment funds must comply with the duties of the CMVM regulation information n°8/2007, of 20 December.

3.2.1. The no need of companies designate a fiscal representative under the new regime

The insurance charges contract that covers risks situated in Portuguese territory, or in which Portugal is the Member State of the undertaking they are subject to, regardless the law that will be applied in the contract, indirect taxes and

fees provided in the Portuguese law, without compromising the provisions of The Code of the Tax on the Increased Value. Instead, the insurance charges contracts drawn by insurance companies incorporated in Portugal, through their branches or under the freedom to provide services, and covering risks situated inside the territory of other state members, they are not subject to indirect taxes and taxes under the terms of the Portuguese law, borne from insurance charges. So, it is stated a territoriality principle of risk.

Deriving from previous legislation in order to ensure the compliance with such tax obligations imposed to non-resident insurance companies to operate in Portugal, through the scheme of provision of services, the duty of, before starting its work, the appointment of a tax representative, resident in the Portuguese territory.

Thus, the access regime and the exercise itself now repealed imposed as an essential condition for the exercise of the insurance and reinsurance activity in Portugal in free provision of services, the appointment of a tax representative. The tax representative should be provided with sufficient powers of Attorney, be habitual resident in the Portuguese territory, and shall be required to be jointly and severally responsible for the payment of indirect taxes and fees that maybe contained in the contracts concluded by the Joint Undertaking.

With the entry into force of Law nº 147/2015, of 9 September, is eliminated the requirement to exercise this activity.

In fact, the RJASR does not foresee the obligation to choose a tax representative that comes in a way to make easier the exercise of the insurance activity in free

provision of services and reinforce the aim of facilitating cross-border business by simplifying the control practices.

However, the current diploma continues to provide the subject to indirect taxes and fees provided for in Portuguese law the awards of contracts of insurance which cover risks situated in Portuguese territory is the Member State of the commitment. And in any case the non-inclusion in the RJASR of the reference to the non-resident tax representation shall not preclude the application of other tax representation based on the current, namely, the general tax law.

4. SUPERVISION AND PENALTY SYSTEM

4.1. WHICH ENTITIES ARE RESPONSIBLE FOR THE SUPERVISION OF INSURANCE AND REINSURANCE COMPANIES THAT EXERCISE THE FREEDOM TO PROVIDE SERVICES?

Whenever a company based in a given Member State wishes to exercise its insurance or reinsurance business in the territory of another Member State, whether it be by way of freedom to provide services or by exercising the right to establishment, the supervision of their activity will inherently go through two entities: on the one hand, the supervisory authority of the home Member State, on the other hand, the supervisory authority of the host Member State. The question is to know what links were built up between the supervision of both entities.

In Portugal, the insurance supervisory authority is the SAIP, as noted.

If an insurance company based in other Member State exercises its insurance and reinsurance activity in Portugal, its activity will be subjected to the supervision of SAIP as regards the applicable laws, regulations and administrative provisions, particularly advertising, insurance contracts and general contractual terms, taxation, policy holders protection, insurers, beneficiaries and injured third parties.

However, the financial supervision shall be the sole responsibility of the home Member State.

In fact, it would not make sense a insurance and reinsurance company with freedom to provide services that therefore has no establishment in Portugal, principal or secondary, to be subjected to a financial supervision by a Portuguese entity. Financial supervision includes verification of the solvency situation, constitution of technical provisions, verification of assets and eligible own funds, in the activities of an insurance and reinsurance company and monitoring the available technical resources (in case of insurance assistance).

It is also a matter to the home Member State supervisory authority the confirmation of the fulfilment of the requirements for the concession of authorisation for insurance and reinsurance activity under the terms and for the purposes set in the Member State national law.

Notwithstanding the head office be situated in another Member State, insurance companies operating in Portugal will be notify by SAIP in the event of a non compliance with the legal and regulatory provisions applicable to insurance company. SAIP will notify the company that fail to comply in order to end with the irregular situation.

In the absence of regularization, the SAIP will inform the home Member State supervisory authority asking for appropriate measures to ensure that the company ends up with the irregular situation. If the adopted procedures were inadequate and unsuccessful and the irregular situation persists, SAIP will have to exercise due diligence to amend the irregularities, to avoid new irregularities and if the worst comes to the worst the prohibition of the company to continue to conclude insurance contracts in Portugal.

Whenever the SAIP considers necessary to interfere the insurance company should collaborate in this sense delivering, for example, all the documents that may be required for this purpose. Depending on the seriousness of the circumstances the SAIP or the Member State supervisory authority may even refer the matter to EIOPA requiring the adequate and necessary assistance.

Notwithstanding the foregoing, if the also detects that the activity of a particular company based in another State may be affecting its financial soundness, it will report that fact to the home Member State supervisory authorities of the reinsurance company.

4.2. ARE THE INSURANCE COMPANIES BASED IN ANOTHER MEMBER STATE ENGAGED IN PORTUGAL UNDER THE FREEDOM TO PROVIDE SERVICES IN PORTUGAL SUBJECT TO THE SANCTIONS BY THE PORTUGUESE SUPERVISORY AUTHORITY?

Whenever there is non-compliance by insurance companies operating in Portugal, they are subject to

sanctions whose application is controlled by SAIP and whose legal structure is based on Portuguese law. Whenever the sanctions are applied it is the responsibility of the SAIP to communicate the application of these sanctions to the home Member State supervisory authority.

Without prejudice to the communication of the home Member State, whenever the decision in to apply sanctions and restrictions on the conduct of assurance business, it will have to be notified to the concerned insurance company and specify the respective findings of law and fact.

The appeal shall be admissible in general terms.

The SAIP will also take appropriate measures to prevent the insurance company based in another Member State to start new insurance operations in Portugal whenever the home Member State supervisory authority communicates the withdrawal or lapse of the respective permission to carry on activity.

5. CONCLUSION

Although Law No. 147/2015 of 9 September transposed the Directive 2009/138 EC of the Parliament and of the Council of 25 November (Solvency II) into Portuguese law, in its present wording, after successive amendments culminating in the later as a result of the Omnibus II and consequently approving the new Juridical Regime of Access and Conduct of Insurance and Reinsurance Business (JRAIR), the truth is that the real impact does not go beyond the organization dimension and the restructuring of a series of matters related to the access

and conduct of the insurance and reinsurance business in Portugal, whether it be by way of establishment or by way of freedom of services and without prejudice to the new regime to reform the prudential regulation.

The legislator maintained the structural principles contained in the previous Decree-Law No. 9-/1998 of April 17 with due regard to Community Law, so significant amendments had not occurred that could in some way condition or change the way nowadays the insurance company of other Member State operate in the Portuguese legal system.

In this respect, as far as the conduct of insurance business under the freedom to provide services by companies established in another Member State goes, there have not been introduced constraints as it is not verified, also in this respect, high order changes. In fact, the most significant change is that companies do not need a tax business representative.

It seems clear that the new Juridical Regime of Access and Conduct of Insurance and Reinsurance Business does not depart from the main objective of the previous regime: the creation of a “single insurance market”, this time more invigorated.

Segundo Ruiz Rodríguez

Insurance contract tax obligations

The following are the main taxes in relation with insurance contracts

INEM:

Insurance undertakings are obliged to levy a charge for the National Institute for Medical Emergencies (hereinafter «INEM») of 2.5% over the gross value of the premiums related to:

- Life assurance policies, and its auxiliary risk covers, provided that the policy covers the risk of death;
- Insurance policies referring to illness, accident, and vehicles and motor vehicle insurance against civil liability.

This charge is due from both resident and non-resident insurance undertakings¹.

1. On an additional note, it is important to mention that, according to the information obtained before the ASF, Note nº 233/87, which states that it should only be qualified as life insurance policies, covering the death risk, the ones in which it is established the possibility to pay an amount

Deadline for submission/payment to INEM: declaration and payment must be made by the end of the month following the one when the amount was charged, after the submission of the form made available at the «Portal ASF»².

Deadline for sending to INEM³ a relation of collections and confirmation of amount and data of transfer is 10th day following the deadline for payment.

ASF:

Decree-Law No. 1/2015, of 6 January establishes that a charge is due to the ASF (Autoridade de Supervisão de Seguros e Fundos de Pensões. Portuguese insurance regulator) on insurance premiums covering risks located in Portugal or in which Portugal is the State of commitment. This charge is due by all insurance companies operating in Portugal and is levied on the total amount of the revenue obtained related to insurance policies covering risks in Portugal.

in the event of death higher than the amount capitalized up to the date of death, has been revoked.

2. Amount charged in Madeira corresponding to INEM rate is Serviço Regional de Protecção Civil IP-RAM revenue and amount charged in Azores corresponding to INEM rate is Serviço Regional de Protecção Civil e de Bombeiros dos Açores revenue. Premiums due by policyholders with residence or head office in autonomous region of Madeira and in autonomous region of Azores are considered respectively charged in autonomous region Madeira and autonomous region Azores. And therefore must be treated separately for such purpose from the premiums due by policyholder with residence in Portugal mainland (Portugal Continental).
3. INEM / Serviço Regional de Protecção Civil IP-RAM / Serviço Regional de Protecção Civil e de Bombeiros dos Açores – see note above.

The applicable charge is updated on an annual basis. For 2017, the due charge on a life insurance premiums is 0.048%.

This tax is supported by the insurer and shall be paid on a semi-annual basis (31 January and 31 July), with reference to the preceding semester. This payment has to be done before the 20th of such said month in both cases.

IS (Imposto do Selo / Stamp Duty) on insurance policies

Insurance policies are subject to stamp duty, with tax rates ranging from 3% up to 9%, depending on the type of insurance policy in question, which apply to the total amount of the cost of the insurance policies. In case there is no special provision, the residual tax rate is of 9%. However, Portuguese law establishes reduced rates and exemptions as follows:

- Life Insurance-related products («seguros ramos vida»), including capitalisation products, and *unit-linked* products are exempt.
- Accident, health, agriculture and livestock, vessel, aircraft and transportation of goods insurance: 5%.
- Guarantee insurance: 3%.

IS (Imposto de Selo) on commissions

This is a special tax levied on the commissions of the insurance mediator. The rate is 2% over amount of the commission (net of Stamp Duty).

The taxable person of *Imposto do Selo* with regard to the commissions paid to the insurance intermediaries

is the insurance company. However, the intermediary is who bears the economic value of the tax at insurance mediation. Accordingly, the insurance company is the one that shall pay the tax to the State, but the tax is levied on the intermediary.

Taxes on non-life insurance policies

| <i>Taxes</i> | <i>Percentages (%)</i> | <i>Periodicity</i> |
|-------------------------------|---|----------------------|
| ASF/ISP | 0.242% | Biannual |
| FAT | 0.15% on salaries 0.85% levied over the amount corresponding to the capital redemption of the pension on December 31st of each year, as well as the amount of the mathematical provisions of the supplementary allowance for third person assistance due on December 31 st , corresponding to the pensions reported to the ASF. | Monthly Annual |
| FGA SNB (ANPC) | Cars– 0.21% Civil Liability of motor vehicles (compulsory insurance)– 2.5% Fire – 13% Agriculture and stockbreeding – 6% Vehicles (transportation of dangerous goods) – 13% Freight transport– 13% Multirisks– 13% Ancillary risks– 13% | Quarterly Monthly |
| INEM | Accidents– 2.5% Sickness– 2.5% Vehicles – 2.5% Ancillary risks– 2.5% | Monthly |

2. INSURANCE CONTRACT TAX OBLIGATIONS

| <i>Taxes</i> | <i>Percentages (%)</i> | <i>Periodicity</i> |
|---------------|---|--------------------|
| SGMAI | Civil Liability of motor vehicles: €0.75 per green card | Monthly |
| IFAP | Crop Insurance: 7% | Annual |
| IS (*) | Guarantee Insurance: 3% Accidents, Sickness and Credit: 5% Agriculture and stockbreeding: 5% Freight transport: 5% Ships and aircraft: 5% All other policies not specifically mentioned: 9% Commissions on insurance mediation – 2% | Monthly |

* Life Insurances are exempt from the payment of Imposto de Selo.

Taxes on life insurance policies

| <i>Taxes</i> | <i>Percentages (%)</i> | <i>Periodicity</i> | <i>Payment Deadline</i> |
|--------------|------------------------|--------------------|---|
| INEM | 2.5% | Monthly | End of the following month |
| ASF | 0.048% | Biannual | 1.º Semester: until 31 July 2.º Semester: until 31 January |

Inheritance Tax / Gift Tax

Currently, there is no inheritance tax in Portugal. Although the current Government has announced, in the beginning of 2016, the intention to (re)introduce this tax, this amendments were postponed as they required further studies.

As per gift taxes, please note that «free transfers» (including both the transfers received *mortis causa* or *inter vivos*) are taxed under stamp duty rules. In case of life insurance policies, and assuming the policyholder and the beneficiary are different and that only the beneficiary is tax resident in Portugal, the benefit received would be perceived as a free transfer. Article 1.º, n.º 5 – a) of the Stamp Duty Code states that free transfers (*transmissões gratuitas*) relating to credits over life insurance policies are not subject to Stamp Duty.

Wealth Tax

There is no wealth tax in Portugal.

Taxation of Life Insurance Benefits

Regarding Personal Income Tax, we have to deal with two different sets of rules: (i) the first, applicable to insurance policies paid by the insured taxable person and (ii) the second, regarding the tax treatment of the insurance policies paid by their employer.

(i) Life insurance policies paid by the policyholder

a. At the subscription of the product

The investment in life insurance products and the designation of the beneficiary does not have any tax impact for both the policyholder and the beneficiary. They will only be taxed if and when they actually obtain taxable income.

b. In case of surrender (partial or total) or payment to the beneficiary

- Policyholder (individuals) = beneficiary (individuals)

According to the Portuguese Individual Income Tax Code the difference between the amount invested in the policy (that is to say premiums) and any amount received as redemption, advance payment or maturity is considered as investment income.

This income is, in general, subject to a 28% tax rate, although resident taxpayers can opt to aggregate this income and subject it to the aforementioned progressive tax rates established (which range from 14.5% up to 48%), plus surtax (which will be abolished until the end of 2017) and additional solidarity tax ranging between 2.5% (on taxable income exceeding 80,000 up to 250,000 euros, per individual) and of 5% (on taxable income exceeding 250,000 euros per individual).

Notwithstanding that, Portuguese law grants tax benefits to life insurance products. In fact, the distributions to the policyholder, provided that premiums paid in the first half of the contract represent at least 35% of the total premium amounts paid, benefit from the following regime:

- Distributions made after the fifth and before the eighth year of the contract: exemption for one fifth of the income, which is equivalent to an effective taxation of 22,4%; and
- Distributions made after the eighth year of the contract: exemption for three fifths of the income, which is equivalent to an effective taxation of 11,2%.

As mentioned above, one of the requirements to benefit from this special tax regime is that the premiums paid in the first half of the contract represent at least 35% of the total premium amounts paid. Thus, at the end of the contract, or in case of surrender, it is important to determine if the 35% threshold occurs, namely in cases where additional premiums were paid.

– Policyholder (individuals) ≠ beneficiary (individuals)

In this context, article 1.5 (a) of the Stamp Duty Code states that free transfers (*transmissões gratuitas*) relating to credits over life insurance policies are not subject to Stamp Duty. The term «free transfers» include both the transfers received *mortis causa* or *inter vivos*. Therefore, payments received from life insurance policies are not subject to Stamp Duty.

Moreover, and pursuant to the Portuguese Insurance Law, in order for a policy to be deemed as a life insurance policy it must cover a life or death risk and, thus, provided one of these risks is covered a policy can be qualified as a Life Insurance.

This exclusion from taxation is applicable to free transfers relating to credits over life insurance policies and, thus, the law does not establish any distinction between the cases when the payment is made at maturity of the contract or in case of death.

(ii) *Life insurance policies paid by the employer*

In case of life insurance policies paid the employer to its employees, the benefits obtained are deemed as employment income (as income in kind).

Tax Residency

A policyholder is considered resident in Portugal if they:

- spend more than 183 days (continuously or not) in Portugal during a tax year (defined as the calendar year); or
- have their habitual abode in Portugal on 31 December of that year and occupy it as their permanent residence; or
- are, on 31 December of any year, a crew member of a ship or aircraft operated by a resident entity; or
- are a Portuguese national who moves residence to a listed tax haven, unless they prove that the move is for a valid reason, such as being seconded by an employer for performing a temporary activity; or
- are a member of a household of which the head is resident in Portugal. This may be rebutted if the spouse spends less than 183 days in Portugal, and can prove there is no significant connection between the majority of his/her economic activities and the Portuguese territory.

Segundo Ruiz Rodríguez

Insurance policies registers

For insurance policies purposes, there are two registers under the Portuguese regulations:

Internal Register

According to Decree-Law No 9-/98 of 17 April, article 131, insurance companies must maintain a register of all contracts covering risks or commitments located in Portugal, which will expressly state the following in respect of each contract:

- a. Class or kind of insurance or operation. For example: class, life insurance; sub-class, credit insurance (for example for house acquisition);
- b. Name and address of the policyholder;
- c. The term (duration of the contract);
- d. The amount of the premium payable by the policyholder and upon which the taxes and charges will fall;
- e. Breakdown of the taxes and charges paid by the undertaking.

This register list should be updated whenever there are changes concerning these points.

No specific format is required for this register; any IT register should be suitable.

It is not necessary to report this information, but it must be kept updated and available for the Portuguese Authorities.

Central Register (Registo Central de Seguros de Vida e de Acidentes Pessoais e Operações de Capitalização com Beneficiários em caso de morte do Segurado ou do Subscritor)

It is mandatory to report to ASF the policies concluded in relation with the life insurance or personal injury insurance or the capital redemption operations.

According to Decree-Law no. 384/2007 the insurer is obliged to provide the ASF with details of insured persons named under a Portuguese life insurance policy. This is an electronic registration, designed to allow a third party access to information on benefits they may be entitled to in the case of the death of the life assured.

Information to be provided to the ASF:

- a. Identification of the insured person:
 - i. Name;
 - ii. Identity card number or any other identification document;
 - iii. Taxpayer number;
- b. Identification of the insurer:
 - i. Insurer's name;
 - ii. Insurer's code;

3. INSURANCE CONTRACT TAX OBLIGATIONS

- iii. Member-State from which the contract was concluded;
- c. Identification of the insurance contract:
 - i. Type of contract;
 - ii. Number or code of the contract;
- d. Any other information to maintain these data actualized (i.e. cancellations):
 - i. Deadline for submission: 5th working day following the day the contract was concluded.
 - ii. How: by electronic means (through ASFNet).
 - iii. Format required: CSV.

Segundo Ruiz Rodríguez

ASF Regulatory Rule No. 8/201–,
Of 16 August 2016
(«ASF Regulatory Rule»)

The ASF Regulatory Rule No. 8/201–, of 16 August (ASF Regulatory Rule), following the transposition into national law of Directive No. 2009/138/EC of the European Parliament and of the Council of 25 November 2009, is aimed at regulating the provision of information by the entities supervised by the Portuguese insurance supervisor ASF (insurance and reinsurance undertakings based in Portugal, as well as holding companies in the insurance sector and mixed financial companies).

The provision of the Title III of the ASF Regulatory Rule (accounting, statistical and behavioural information) is extended to insurance companies based in another EU Member State that operate in Portuguese territory under freedom to provide services, and also to branches of insurance companies incorporated in another EU Member State. The ASF Regulatory Rule establishes the new reporting requirements for the insurance companies based in another EU Member State that operate in Portuguese territory under freedom to provide services.

Therefore, under the ASF Regulatory Rule, insurance companies based in another EU Member State that operate in Portuguese territory under freedom to provide services have to deliver to the ASF the following:

1. Information on the remuneration paid to brokers for their insurance mediation services (v. article 31, No. 1, paragraph a), sub-paragraph iii));
2. National Authority for Civil Protection (v. Article 31, No. 1, paragraph c), sub-paragraph iii));
3. Identification of brokers with liability insurance contracts (v. article 31, No. 1, paragraph e), sub-paragraph iii));
4. Information on their activity within the Portuguese territory under freedom to provide services (v. article 31, No. 1, paragraph e), sub-paragraph v));
5. Claim settlement deadlines control (v. article 31, No. 1, paragraph e), sub-paragraphs vi), vii) and viii));
6. Report on complaints management (v. article 31, No. 1, paragraph e), sub-paragraph ix));
7. Report for the purpose of behavioral supervision (v. article 32, No. 1, paragraph f)). In which refers to this requirement a note to refer that the wordings of the article 32, No. 1 and Annex IV are inconsistent. Article 32, No. 1 is addressed to the insurance and reinsurance undertakings based in Portugal and, where applicable, the holding companies in the insurance sector, or mixed financial holding companies which are

obliged to prepare and present consolidated financial statements. Nonetheless, Annex IV identifies insurance companies based in another EU member state that operate in Portuguese territory under freedom to provide services as recipients of the requirement stated in paragraph f) of No. 1 of article 32.

8. Disclosure of customer ombudsman recommendations (v. article 32, No. 2, paragraphs a) and e));
9. Designation / activity onset / implementation or change (v. article 33, No. 2, paragraphs b), c), d) and f));
10. Conventions, protocols and other agreements (v. article 33, No. 2, paragraph g));
11. Information provided for in article 8 of Decree-Law No. 384/2007 of 19 November, namely identification of the insured and insurer and of the insurance contract or capitalization (v. article 33, No. 3);
12. Information related to Life Insurance and capitalization operations, not related with investment funds, and non-Life Insurance at the beginning and end of its marketing (v. article 33, No. 4).

However, please note that except for the information referred to in points 1 to 6 above (which is provided subject to the ASF request), the insurer is under the obligation of sending to the ASF the information listed in points 7 to 12 above at its own initiative.

Additionally the above mentioned information is to be sent / provided to the ASF within the periods specified in Annex IV to the ASF Regulatory Rule (article 34).

Please bear in mind that the deadlines referred to in the said Annex IV of the ASF Regulatory Rule are different from those stated in the Annex I to the Regulatory Rule 11/200 – of 30 October 2016.

The information specified in article 31 and No. 4 of article 33, as well as the supervision reports set out in article 32 shall be sent to the ASF by use of Portal ASF at www.asf.com.pt.

The elements set out in sub-paragraph v) of paragraph a) of number 1 of article 31, sub-paragraph iii) of paragraph f) of number 1 of article 31 and sub-paragraph iii) of paragraph j) number 1 of article 31 and in number 2 of article 33 shall be referred to the ASF by comportamental@asf.com.pt email address.

SOME PRACTICAL QUESTIONS AND THEIR ANSWERS

The following section is referred only to insurance companies which operate under the freedom to provide services («FPS's»). These questions and answers refer to the previous 12 points.

– Point 5.

«Claim settlement deadlines control – Is this when the insurer receives a request for encashment from a policyholder or is it when the insurer settles a complaint?»

The reporting of information to the ASF is intended to control the claims settlement periods provided for in the legal framework of the Compulsory Motor Vehicle Liability Insurance, approved by Decree-Law No. 291/2007 of 21 August.

The information that the undertakings operating in Portugal under the freedom to provide services (FPS's) have to send to the ASF by 15 January is the information provided for under article 3 of the ASF Regulatory Rule No. 16/200–, of 20 December, as amended by the ASF Regulatory Rule No. 7/200–, of 14 May and the ASF Regulatory Rule No. 17/201–, of 18 November, related to property damage, personal injury, and personal injury and property damage covered by a compulsory insurance of motor vehicles civil liability.

The report must be made with reference to all claims whose proceedings were technically closed in the previous year. It is considered that the process is technically closed at the moment the last act of regularization of the claim is carried out, which is obligatory and does not include payment to third party service providers.

– Point 7.

«Report for the purpose of behavioral supervision – Does the life insurer have to file consolidated financial accounts by 15 April every year? Is there any other information they require in their report?»

The FPS's do not have to provide the ASF with consolidated financial accounts.

The discrepancy between paragraph f) of No. 1 of its article 32 of the Regulatory Rule No. 8/201 – (Regulatory Rule) and its Annex IV is due to the fact that the obligation of the FPS's to submit the report for the purposes of behavioral supervision (market conduct), as well as its contents and the respective deadline was the object of the Public Consultation of ASF No. 15/2016 ([http://www.asf.com.pt /NR/exeres/DD1E93----12089ABC31.htm](http://www.asf.com.pt/NR/exeres/DD1E93----12089ABC31.htm)).

Informally, the Conduct Supervision Department of the ASF informed that the draft of regulatory rule on the behavioral supervision (market conduct), is still under internal evaluation.

Therefore, at this stage it is not yet defined the information to be provided by the FPS's for the purposes of behavioral supervision (market conduct).

Nonetheless, if the ASF approves and publishes the draft regulatory rule, the FPS's shall have to provide the following information, upon the ASF request:

- Description of the risk acceptance policy and analysis of insurance products marketed in the year covered by the report;
- Description of the claims management procedures;
- Description of the procedures adopted by the assurance undertaking in the storage of information;
- Demonstration of the adequacy of profit sharing plans to the characteristics of the insurance portfolio and its application;
- Demonstration of the adequacy of the provision for portfolio stabilization and the provision for rate commitments, if any;

- Demonstration of the adequacy of the policy for the design and approval of seals, as well as their application.

The process of making available and sending the report provided for is done through the use of the ASF Portal residing at *www.asf.com.pt*.

«Report for the purpose of behavioral supervision – Can you advise when the Conduct Supervision Department of the ASF will have a decision on the final version of the regulatory rule?»

The Conduct Supervision Department of the ASF cannot ascertain the date of publication of the Regulatory Rule nor, at this stage, its final version.

Yet informally they referred that many insurance companies (which have significant higher reporting obligations under the Regulatory Rule 8/201 – than the FPS's) are reaching the CMVM (Comissão do Mercado de Valores Mobiliários) explaining their concerns on the deadlines to comply with the reporting obligations and the uncertainty of the information to be provided.

Thus, they informed that the CMVM will take into account that the date of publication of the new Regulatory Rule and the reporting of the information deadlines.

«Report for the purpose of behavioral supervision – Can you advise what the “claims management procedure” is? Is it our procedure for when a policyholder wishes to make a trade or encash or is it when the policyholder makes a complaint?»

It is the Insurer's procedure to settle claims, as per the ASF Regulatory Rule No. 10/200–, of June 25 (on the market

conduct still in place), the management of the insurance undertaking is responsible for the definition and approval of an operating regulation applicable to the management of claims of policyholders, insured persons, beneficiaries or injured third parties, as well as the proper implementation of the same and the monitoring of compliance.

«Report for the purpose of behavioral supervision – Can you advise about “Demonstration of the adequacy of the insurance company policy for granting and approving insurance products and its application”?»

The draft of the new Regulatory Rule on behavioural supervision (market conduct) aims to regulate the general principles of the policy for the design and approval of insurance products. As per the draft of the new Regulatory Rule, the policy for designing and approving insurance products shall establish the set of internal procedures, functions and strategies for designing and introducing insurance products on the market, as well as for monitoring, reviewing and distributing these products during the respective policy life cycle.

Thus if the final version of the Regulatory Rule on behavioural supervision (market conduct) matches the draft under approval, the behavioural report to be submitted to the ASF by the FPS's, at the ASF request, shall include the demonstration of the adequacy of the insurance company policy for granting and approving insurance products and its application.

– Point 8.

«Disclosure of customer ombudsman recommendations – Does the life insurer have to let ASF know by the 15 April

if they received any complaints regarding their products in Portugal, are the complaints only to be reported if they have gone to the Ombudsman or does the insurer have to report all complaints?»

The FPS's are required to disclosure the recommendations of the Customers Ombudsman, not the complaints.

The FPS's shall inform the ASF (by e-mail to the address supervisao.comportamental@asf.com.pt) the link to the website in which the Customers Ombudsman recommendations are disclosed (in the Customers Ombudsman website or, if unavailable, the insurer's website).

This information shall be provided to the ASF after the recommendations of the Customers' Ombudsman are disclosed. The indicative timeframe is the end of February.

– Point 9.

«Can you advise what designation/activity onset/ implementation or change means? Is it when the insurer puts a new process in place?»

The FPS's shall provide the ASF with:

- Information on how the autonomous function responsible for managing complaints has been set up and implemented, as well as the identification of the centralized point of reception and response and their contact details, and any changes thereto (article 18 of the Regulatory Rule).

- Information on the identity of the Customers Ombudsman, copy of the regulations applicable to the Customers Ombudsman and amendments thereto (article 19 of the Regulatory Rule).
- Contact details of the privileged interlocutor in order to contact with the ASF, in the context of the management of complaints and response to requests for information or clarification and any amendments thereto (article 20 of the Regulatory Rule).

The information is to be sent to the ASF by e-mail to the address supervisao.comportamental@asf.com.pt.

«Can you advise what “autonomous function responsible for managing complaints” is? Is this the department responsible for complaints within our company?»

Yes. The autonomous function is responsible for the management of complaints processes, and acts as a centralized point of reception and response, duly identified inside and outside the insurance undertaking.

«Can you advise what a “privileged interlocutor for the purpose of contact with the ASF”? Is this the name of the person in our company who will be liaising with the ASF?»

Yes. It is the person appointed by the insurance undertaking for liaising with the ASF, in the context of the management of complaints and response to requests for information or clarification.

«Can you advise how the Customer Ombudsman operates in Portugal? Is there separate ombudsman for different things or is there just one Ombudsman?»

According to the Legal Framework of the Insurance and Reinsurance Activity, approved by Law No. 147/2015 of September 9, each insurance undertaking shall designate a Customer Ombudsman, who cannot perform that function in other insurance undertakings, unless they are members of the same insurance group.

The complaints from policyholders, insured persons, beneficiaries or injured third parties that have not been answered by the insurance undertaking within a maximum of 20 days (or 30 days, in cases of particular complexity), counted from the date of its receipt or when, having been answered by the insurance undertaking within that period, the claimant disagrees with it, may be submitted to the Customer Ombudsman.

The insurance undertaking must approve the operating regulation of the Customer Ombudsman, as provided under article 13 of Regulatory Rule.

– Point 10.

«Conventions, protocols and other agreements – Can you advise what this means? Do we have to report on all agreements we have in place with regard to our products in Portugal?»

The FPS's have to report to the ASF all the conventions, protocols and other agreements between insurance companies impacting on their relationship with policyholders, insured persons, beneficiaries and injured third parties.

The information is to be sent to the ASF by e-mail to the address supervisao.comportamental@asf.com.pt.

«Conventions, protocols and other agreements – We are not sure what other agreements the insurer will have with other insurance companies which would impact our relationship with policyholders, insured persons, beneficiaries and injured third parties. Would this be if the insurer ever sold the company to another insurance company?»

These rules are designed to protect the policyholders, insured persons, beneficiaries and injured third parties. But it is considered that agreements between insurers for the settlement of claims fall within this point 10. Such agreements should be examined on a case-by-case basis.

The selling of the insurance undertaking to another insurance company may affect the commercial relation established between the insurance undertaking and any policyholders, insured persons, beneficiaries and injured third parties.

– Point 11.

«Can you advise what this means? Does the insurer have to name the policyholders?»

The FPS's have to provide ASF with information on:

A. Identification of the insured:

- i. Name;
- ii. Civil identification number or other identification document, if different;
- iii. Tax identification number;

B. Identification of the insurer:

- i. Corporate name;
- ii. Statistical code of the insurer;
- iii. Member State from which it was concluded;

C. Identification of the insurance contract or the capitalization transaction:

- i. Type of the contract;
- ii. Identification number or code of the contract.

The information is required to be uploaded in a FPS's database compatible with the platform managed by the ASF, which allows for automatic and immediate access to the information contained therein.

The insurer does not have to name the policyholders.

– Point 12.

«Could you please advise what this means? Is it applicable to the life insurer?»

According to the referred draft of Regulatory Rule on behavioural supervision (market conduct), which is still under internal review of the ASF, the FPS's shall keep available for consultation, upon request, to provide the ASF with information, a computer record containing the following information:

A. Regarding Life Insurance and operations, not linked to investment funds:

- Product code;
- Type of insurance or operation;

Technical description of the product;
Commercial description of the product;
If it qualifies as PPR (planos poupança-reforma);
Whether it qualifies as an investment product on the basis of insurance;
Type of contract;
Form of contracting;
If it is a product used exclusively for the financing of pension plans;
If there is counter-insurance of premiums;
If the right to redemption is granted;
Date of commencement of marketing;
Type of coverage;
Identification of the coverages;
Includes guaranteed technical fee;
Assignment of participation in results;
Whether participation in results depends on strictly technical results;

B. Regarding non-Life Insurance:

Product code;
Insurance branch;
Technical description of the product;
Commercial description of the product;
Whether it is compulsory insurance;
Form of contracting;
Date of commencement of marketing;
Main or supplementary coverage;

Identification of the coverages;

Duration of contract.

Thus, according to Annex IV to the Regulatory Rule the deadline to provide this information is 8 days after the beginning or end of the commercialization, according to the draft of Regulatory Rule, such deadline applies to insurance companies and to branches of insurance companies, while the FPS's are only required to keep it available for consultation to provide the ASF with information, upon request.

The referred communications are made through the use of the ASF Resident Portal at *www.asf.com.pt*.

«The deadline is 8 days after the beginning or end of commercialisation, what does commercialisation mean, is it the same as marketing?»

In this sentence commercialisation means the moment the insurance is available for sale.

Segundo Ruiz Rodríguez

ANNEXES

Spain

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez

Annex 1

Main tax forms to be completed by life insurance companies

- a) Form 128 «Income or return on investment capital derived from capitalisation operations and life or disability insurance contracts»
- b) Form 188 «Income or return on investment capital derived from capitalisation operations and life or disability insurance contracts. (Annual Summary)»
- c) Form 189 «Annual information regarding, securities, insurances and rents»
- d) Form 210 «Non-resident Income Tax»
- e) Form 210 «Non-resident Income Tax. Instructions»
- f) Form 216 «Non-resident Income Tax»

Annex 1

Ayuda **Castellano** **Català** **Galego** **Valencià** **Rellenar Formulario**

Agencia Tributaria
Teléfono: 901 33 55 33
www.agencia tributaria.es

Impuesto sobre la Renta de las Personas Físicas
Impuesto sobre Sociedades. Impuesto sobre la Renta de no Residentes (establecimientos permanentes)
Retenciones e ingresos a cuenta
Rentas o rendimientos del capital mobiliario procedentes de operaciones de capitalización y de contratos de seguro de vida o invalidez
Autoliquidación periódica

Modelo
128

Declarante (1)
Espacio reservado para la etiqueta identificativa
Si la declaración es negativa y no dispone de etiquetas, consigne a continuación sus datos identificativos
NIF: _____ Apellidos y nombre o razón social: _____

Devenido (2)
Ejercicio: _____ Período: _____
128461436590 3
[Barcode]

Liquidación (3)
Retenciones e ingresos a cuenta:
Nº de perceptores: 01 _____ 04 _____
Base de las retenciones e ingresos a cuenta: 02 _____ 05 _____
Retenciones e ingresos a cuenta: 03 _____
A deducir (exclusivamente en caso de declaración complementaria):
Resultados a ingresar de anteriores declaraciones por el mismo concepto, ejercicio y período: 06 _____
Resultado a ingresar (03 - 06): 07 _____

Ingreso (4)
Ingreso efectuado a favor del Tesoro público: Cuenta restringida de colaboración en la recaudación de la AEAT de declaraciones-liquidaciones o autoliquidaciones especiales.
Importe del ingreso (casilla 07): I _____
Forma de pago: ☐ En efectivo ☐ E.C. adeudado en cuenta
Entidad: _____ Sucursal: _____ DC: _____ Número de cuenta: _____

Forma (7)
Firma: _____, a _____ de _____ de _____

Negativa (5)
☐ Declaración negativa

Complementaria (6)
☐ Declaración complementaria
Si esta declaración es complementaria de otra declaración anterior correspondiente al mismo concepto, ejercicio y período, indíquelo marcando con una "X" esta casilla.
En este caso, consigne a continuación el número de justificante identificativo de la declaración anterior:
Nº de justificante: _____



Este documento no será válido sin la certificación mecánica o, en su defecto, firma autorizada

Rellenar Formulario **Castellano** **Català** **Galego** **Valencià**

Per. 1.0/2010

Ejemplar para el declarante

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

| | | | |
|---|---|--|--|
|  MINISTERIO DE ECONOMÍA Y HACIENDA |  Agencia Tributaria Delegación de Administración de | RESUMEN ANUAL DE RETENCIONES E INGRESOS A CUENTA DEL IRPF, DEL IMPUESTO SOBRE SOCIEDADES Y DEL IMPUESTO SOBRE LA RENTA DE NO RESIDENTES (ESTABLECIMIENTOS PERMANENTES) Rentas o rendimientos del capital mobiliario procedentes de operaciones de capitalización y de contratos de seguro de vida o invalidez Resumen anual | Modelo <div style="font-size: 2em; font-weight: bold;">188</div> |
|---|---|--|--|

Declarante

Espacio reservado para la etiqueta identificativa
(si no dispone de etiquetas, haga constar a continuación sus datos identificativos,
así como los de su domicilio fiscal)

NIF: _____ TELÉFONO DE CONTACTO: _____


APELLIDOS Y NOMBRE, DENOMINACIÓN O RAZÓN SOCIAL: _____

DOMICILIO FISCAL: _____

Calle/Paseo/Ruta: _____ Número: _____

Municipio: _____ Provincia: _____ Cód. postal: _____

189461410615 6



Declaración complementaria o sustitutiva

Si la presentación de esta declaración tiene por objeto incluir percepciones que, debiendo haber figurado en otra declaración del mismo ejercicio presentada anteriormente, hubieran sido completamente omitidas en la misma, marque con una "X" la casilla "Declaración complementaria".
Cuando la presentación de esta declaración tenga por objeto anular y sustituir completamente a otra declaración anterior del mismo ejercicio en la cual se hubieran consignado datos inexactos o erróneos, indique su carácter de declaración sustitutiva marcando con una "X" la casilla correspondiente.
En caso de declaraciones sustitutivas, se hará constar a continuación el número identificativo de la declaración anterior que se sustituye mediante la nueva.

Declaración complementaria... ☐

Declaración sustitutiva... ☐ Número identificativo de la declaración anterior 1,8,9

Ejercicio y modalidad de presentación

Ejercicio

Modalidad de presentación:

Impreso ☐

Soporte ☐

Resumen de los datos incluidos en la declaración

| | | |
|--------------------------|--------------------------------------|---------------------------------|
| N.º Total de Perceptores | Base retenciones e ingresos a cuenta | Retenciones e ingresos a cuenta |
| 01 <input type="text"/> | 02 <input type="text"/> | 03 <input type="text"/> |
| 04 <input type="text"/> | 05 <input type="text"/> | |

Fecha y firma

Fecha:

Firma: _____


Fdo.: D/D.* _____

Cargo o empleo: _____

Espacio reservado para la Administración

Hoja-resumen. Ejemplar para el interesado

Ver. 1.0/2011

 Agencia Tributaria

Retenciones e ingresos a cuenta IRPF, Impuesto sobre Sociedades e Impuesto sobre la Renta de no Residentes (establecimientos permanentes) **Relación de perceptores**

Modelo
188

Datos identificativos de esta hoja

NIF del declarante Ejercicio Hoja n.º

189461410615 6



Perceptor 1

NIF perceptor NIF representante Apellidos y nombre, razón social o denominación del perceptor Provincia (Código)
 Modalidad Rentas o rendimientos cap. mob. Reducciones (D. T.ª cuarta Ley 35/2006) Ejercicio devengo Base retenciones e ingresos a cuenta
 % retención Retenciones e ingresos a cuenta Clave Información adicional

Perceptor 2

NIF perceptor NIF representante Apellidos y nombre, razón social o denominación del perceptor Provincia (Código)
 Modalidad Rentas o rendimientos cap. mob. Reducciones (D. T.ª cuarta Ley 35/2006) Ejercicio devengo Base retenciones e ingresos a cuenta
 % retención Retenciones e ingresos a cuenta Clave Información adicional

Perceptor 3

NIF perceptor NIF representante Apellidos y nombre, razón social o denominación del perceptor Provincia (Código)
 Modalidad Rentas o rendimientos cap. mob. Reducciones (D. T.ª cuarta Ley 35/2006) Ejercicio devengo Base retenciones e ingresos a cuenta
 % retención Retenciones e ingresos a cuenta Clave Información adicional

Perceptor 4

NIF perceptor NIF representante Apellidos y nombre, razón social o denominación del perceptor Provincia (Código)
 Modalidad Rentas o rendimientos cap. mob. Reducciones (D. T.ª cuarta Ley 35/2006) Ejercicio devengo Base retenciones e ingresos a cuenta
 % retención Retenciones e ingresos a cuenta Clave Información adicional

Perceptor 5

NIF perceptor NIF representante Apellidos y nombre, razón social o denominación del perceptor Provincia (Código)
 Modalidad Rentas o rendimientos cap. mob. Reducciones (D. T.ª cuarta Ley 35/2006) Ejercicio devengo Base retenciones e ingresos a cuenta
 % retención Retenciones e ingresos a cuenta Clave Información adicional

Total de la hoja

Consigne en estas dos casillas la suma de las bases de las retenciones e ingresos a cuenta y retenciones e ingresos a cuenta que figuren relacionados en esta hoja con signo positivo.
 Consigne en esta casilla la suma de las bases de las retenciones e ingresos a cuenta que figuren relacionados en esta hoja con signo negativo o cero.

Base retenciones e ingresos a cuenta Retenciones e ingresos a cuenta
 Base retenciones e ingresos a cuenta

Ejemplar para el interesado

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES


| | | | | | | | | | | |
|---|---|---|---|--|---|-----------------------------|--------------------------------|--|--|--|
|  MINISTERIO DE ECONOMÍA Y HACIENDA | Agencia Tributaria Teléfono: 901 33 55 33 www.agenciatributaria.es | Castellano Català Galego Valencià | Declaración informativa anual acerca de valores, seguros y rentas. | Modelo 189 | | | | | | |
| Declarante <div style="border: 1px dashed black; padding: 10px; text-align: center;"> Espacio reservado para la etiqueta identificativa <small>(si no dispone de etiquetas, haga constar a continuación sus datos identificativos)</small> </div> | | <div style="border: 1px dashed black; padding: 10px; text-align: center;"> 180451902343 1  </div> | | | | | | | | |
| Ejercicio Ejercicio | | | | | | | | | | |
| <table style="width: 100%;"> <tr> <td style="width: 20%;">N.I.F.</td> <td style="width: 50%;">DENOMINACIÓN O RAZÓN SOCIAL</td> <td style="width: 30%;">TELÉFONO DE CONTACTO</td> </tr> <tr> <td><input style="width: 90%;" type="text"/></td> <td><input style="width: 90%;" type="text"/></td> <td><input style="width: 90%;" type="text"/></td> </tr> </table> | | | | | N.I.F. | DENOMINACIÓN O RAZÓN SOCIAL | TELÉFONO DE CONTACTO | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> |
| N.I.F. | DENOMINACIÓN O RAZÓN SOCIAL | TELÉFONO DE CONTACTO | | | | | | | | |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | | | | | | | | |
| Declaración complementaria o sustitutiva <small>Si la presentación de esta declaración tiene por objeto incluir datos que, debiendo haber figurado en otra declaración del mismo ejercicio presentada anteriormente, hubieran sido completamente omitidos en la misma, marque con una "X" la casilla "Declaración complementaria".</small> <small>Cuando la presentación de esta declaración tenga por objeto anular y sustituir completamente a otra declaración anterior del mismo ejercicio en la cual se hubieran consignado datos inexactos o erróneos, indique su carácter de declaración sustitutiva marcando con una "X" la casilla correspondiente.</small> <small>En ambos casos, se hará constar el número de 13 dígitos identificativos de la declaración del mismo ejercicio anteriormente presentada o el de la última de ellas, si se hubieran presentado varias.</small> Declaración complementaria Número identificativo de la declaración anterior Declaración sustitutiva | | | | | | | | | | |
| Resumen de los datos incluidos en la declaración <table style="width: 100%;"> <tr> <td style="width: 80%;">Nº Total de registros de declarados</td> <td style="width: 20%; text-align: center;">01</td> </tr> <tr> <td>Importe total valoración</td> <td style="text-align: center;">02</td> </tr> </table> | | | | | Nº Total de registros de declarados | 01 | Importe total valoración | 02 | | |
| Nº Total de registros de declarados | 01 | | | | | | | | | |
| Importe total valoración | 02 | | | | | | | | | |
| Fecha y firma Fecha: <input style="width: 80%;" type="text"/> Firma: <input style="width: 90%;" type="text"/> Fdo.: D.Dª. <input style="width: 80%;" type="text"/> Cargo o empleo: <input style="width: 80%;" type="text"/> | | Espacio reservado para la Administración <div style="border: 1px solid black; height: 150px; width: 100%;"></div> | | | | | | | | |
| Castellano Català Galego Valencià | | Hoja-resumen. Ejemplar para el interesado | | | | | | | | |

Ver. 2.0/2010

| | | | | | | | | | | |
|--|-----------------------------|--|--|----------------------|---|-----------------------------|----------------------|--------------------------------|----|--|
|  Agencia Tributaria Teléfono: 901 33 55 33 www.agenciatributaria.es | | Castellano Català Galego Valencià | Declaración informativa anual acerca de valores, seguros y rentas. | Modelo 189 | | | | | | |
| Declarante <div style="border: 1px dashed black; height: 60px; margin: 5px; text-align: center; padding: 10px;"> Espacio reservado para la etiqueta identificativa <small>(si no dispone de etiquetas, haga constar a continuación sus datos identificativos)</small> </div> | | <div style="border: 1px dashed black; padding: 5px; text-align: center;"> 180451902343 1  </div> | | | | | | | | |
| Ejercicio Ejercicio | | | | | | | | | | |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 20%; border-bottom: 1px solid black;">N.I.F.</td> <td style="width: 50%; border-bottom: 1px solid black;">DENOMINACIÓN O RAZÓN SOCIAL</td> <td style="width: 30%; border-bottom: 1px solid black;">TELÉFONO DE CONTACTO</td> </tr> </table> | | | | | N.I.F. | DENOMINACIÓN O RAZÓN SOCIAL | TELÉFONO DE CONTACTO | | | |
| N.I.F. | DENOMINACIÓN O RAZÓN SOCIAL | TELÉFONO DE CONTACTO | | | | | | | | |
| Declaración complementaria o sustitutiva <small>Si la presentación de esta declaración tiene por objeto incluir datos que, debiendo haber figurado en otra declaración del mismo ejercicio presentada anteriormente, hubieran sido completamente omitidos en la misma, marque con una "X" la casilla "Declaración complementaria". Cuando la presentación de esta declaración tenga por objeto anular y sustituir completamente a otra declaración anterior del mismo ejercicio en la cual se hubieran consignado datos incorrectos o erróneos, indique su carácter de declaración sustitutiva marcando con una "X" la casilla correspondiente. En ambos casos, se hará constar el número de 13 dígitos identificativos de la declaración del mismo ejercicio anteriormente presentada o el de la última de ellas, si se hubieran presentado varias.</small> | | | | | | | | | | |
| Declaración complementaria Número identificativo de la declaración anterior | | | | | | | | | | |
| Resumen de los datos incluidos en la declaración <table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Nº Total de registros de declarados</td> <td style="width: 10%; text-align: center;">01</td> <td style="width: 30%; border-bottom: 1px solid black;"></td> </tr> <tr> <td>Importe total valoración</td> <td style="text-align: center;">02</td> <td style="border-bottom: 1px solid black;"></td> </tr> </table> | | | | | Nº Total de registros de declarados | 01 | | Importe total valoración | 02 | |
| Nº Total de registros de declarados | 01 | | | | | | | | | |
| Importe total valoración | 02 | | | | | | | | | |
| Fecha y firma Fecha: Firma: Fdo.: D/Dª Cargo o empleo: | | Espacio reservado para la Administración <div style="border: 1px solid black; height: 100px; margin: 5px;"></div> | | | | | | | | |
| Castellano Català Galego Valencià | | Hoja-resumen. Ejemplar para el interesado | | | | | | | | |

Ver. 2.0/2010

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES



Agencia Tributaria
Delegación de
Administración de _____ Código _____

Impuesto sobre la Renta de no Residentes


No residentes sin establecimiento permanente

Modelo
210
DECLARACIÓN ORDINARIA

Presentador

Espacio reservado para la etiqueta identificativa

260473390624 1



Devingo

Fecha de devengo

N.I.F. _____ F./A. _____ APELLIDOS Y NOMBRE (por este orden) o RAZÓN SOCIAL _____

Calle/Plaza/Avda. _____ Número _____ Municipio _____ Provincia _____ Cód. Postal _____

Presenta la declaración en su condición de:

Contribuyente ☐ S ☐ R ☐ P ☐ Pagador ☐ D ☐ Gestor ☐ G ☐ Retenedor (sólo para declaración con solicitud de devolución) ☐ T

Contribuyente

N.I.F. _____ F./A. _____ APELLIDOS Y NOMBRE (por este orden) o RAZÓN SOCIAL _____ Código extranjero _____

Calle/Plaza/Avda. _____ Número _____ Municipio _____ Provincia/País _____

Representante del contribuyente

N.I.F. _____ F./A. _____ APELLIDOS Y NOMBRE (por este orden) o RAZÓN SOCIAL _____

Calle/Plaza/Avda. _____ Número _____ Municipio _____ Provincia _____ Cód. Postal _____

Pagador/Retenedor

N.I.F. _____ F./A. _____ APELLIDOS Y NOMBRE (por este orden) o RAZÓN SOCIAL _____

Calle/Plaza/Avda. _____ Número _____ Municipio _____ Provincia _____ Cód. Postal _____

Renta obtenida

Situación del inmueble (para rentas de los tipos 01 y 02): _____ Código país _____ Tipo renta _____ Clave de divisa _____

Determinación de la base imponible

| 210 A General | 210 B Ingresos con deducción de gastos (Art. 24.2 Ley IRNR) | 210 C Ganancias patrimoniales (excepto bienes inmuebles) |
|---|---|--|
| Ingresos íntegros | 5 _____ | Fecha de adquisición |
| Gastos de personal | 6 _____ | Valor de adquisición |
| Gastos de aprovisionamiento de materiales y de suministros | 7 _____ | Valor de adquisición |
| Base Imponible (En el caso de dividendos, consulte las instrucciones) | Base Imponible (5 - 6 - 7) | Diferencia (10 - 11) |
| 4 _____ | 8 _____ | Base Imponible |
| | | 13 _____ |

Liquidación

| Tipo de gravamen (%) Exento, Exempto | Exención Ley IRNR | Exención Convenio | Límite Convenio |
|--------------------------------------|-------------------------|-------------------------------|-------------------|
| 14 _____ | 15 _____ | 16 _____ | 17 _____ |
| Cuota íntegra | Deducción por donativos | Retenciones/Ingresos a cuenta | Cuota diferencial |
| 18 _____ | 19 _____ | 20 _____ | 21 _____ |

Fecha y firma

Fecha: _____ Firma: _____

Ejemplar para el contribuyente-representante

Ver. 3.0/2008

Agencia Tributaria

Delegación de Administración de Código

Impuesto sobre la Renta de no Residentes

No residentes sin establecimiento permanente

Modelo 210
DECLARACIÓN ORDINARIA

DOCUMENTO DE INGRESO O DEVOLUCIÓN

Presentador

Espacio reservado para la etiqueta identificativa
(Si no dispone de etiquetas, haga constar a continuación sus datos identificativos, así como los de su domicilio fiscal)

260473390624 1

Devengo

Fecha de devengo 0 A

N.I.F. F/J APELLIDOS Y NOMBRE O RAZÓN SOCIAL

Calle/Plaza/Rueda Número Esc. Piso Pta. Teléfono

Código Postal Municipio Provincia Código País

Cuota Diferencial

Cuota Diferencial 21

Ingreso

Ingreso efectuado a favor del **Tesoro Público**, cuenta restringida de la Agencia Estatal de Administración Tributaria por la **Recaudación de los Tributos**.

Forma de pago: ☐ En efectivo ☐ E.C. adeudo en cuenta

Importe:

Código cuenta cliente (CCC)

Entidad Sucursal DC Número de cuenta

Devolución

Titular de la cuenta: N.I.F.

Fecha:

Sello de la entidad y firma:

Código cuenta cliente (CCC)

Entidad Sucursal DC Número de cuenta

Importe:

Sin ingreso ni devolución

Si la autoliquidación resulta con CUOTA CERO, marque con una X este recuadro.

CUOTA CERO ☐

Firma

Fecha:

Firma:

☐ Contribuyente ☐ Representante ☐ Pagador

☐ Depositario ☐ Gestor ☐ Retenedor

Ver. 3.0/2008

Ejemplar para el contribuyente-representante

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

| | | |
|--|---|---|
| <p>Form 210</p> | <p>Instructions for filling in your self-assessment form</p> | <p>Non-resident Income Tax</p> <p>Non-residents without permanent establishment.</p> |
| <p>Important: All amounts required must be expressed in euros, placing the whole number in the left hand division of the corresponding boxes, and fractions (to two decimal points) on the right.</p> | | |
| <p>Any mention in these instructions to the Tax Act and the Regulations refer to the consolidated text of the Non-resident Income Tax Act, passed by Legislative Royal Decree 5/2004 (Official State Gazette of 12 March) and the Regulations for application of this Tax, passed by the single article of Royal Decree 1776/2004 dated 30 July (Official State Gazette of 5 August).</p> | | |
| <p>Obligation to declare</p> <p>This self-assessment form should be used to file returns on income obtained without permanent establishment by taxpayers subject to non-resident income tax.</p> <p>These same taxpayers are not bound to file self-assessed tax returns on income that has already been subject to the withholding established in article 31 of the Tax Act, nor on income subject to withholding but exempt from the same by virtue of article 14 of the Tax Act or an applicable agreement. In particular, there is still the obligation to declare in the following cases of receiving income:</p> <ul style="list-style-type: none"> - Income subject to Non-Resident Income Tax but exempt from tax withholding and payment on account, in accordance with article 10.3 of the Tax Regulations. These include, for example, capital gains derived from the sale of shares. - Natural persons. Income from urban buildings. - Payments made by natural persons who are not withholders. For example, earnings obtained from property lets when the tenant is a natural person and pays the rent for purposes other than an economic activity. - To request a refund for excess withholdings or payments on an account related to the tax levied. <p>These taxpayers are taxed separately for each total or partial taxable income accrued. Therefore, when bound to file a tax return, they must use this self-assessment form to declare each income separately.</p> <p>In this way, they can declare any type of income (earnings, income from real estate, capital gains).</p> <p>Nevertheless, this self-assessment form can be used to declare several different incomes obtained by a single taxpayer as a group, provided they have the same income type code, come from the same payer, and are subject to the same tax rate.</p> <p>Furthermore, if these incomes derive from an asset or right, they must come from the same asset or right.</p> <p>Concerning income from the transfer of real estate assets:</p> <ul style="list-style-type: none"> - In the event of a loss, taxpayers must also file this self-assessment form if they wish to exercise their right to receive a refund on withholdings already paid. - If the real estate asset in question is jointly owned by a married couple in which both spouses are non-residents, a single tax return may be filed. | | |
| <p>Documentation</p> <p>The following documentation must be submitted:</p> <ul style="list-style-type: none"> - Residence certificates or forms: When the self-assessment form filed applies exemptions provided for under Spanish law due to the taxpayer's residence status, it must be accompanied by a residence certificate issued by the tax authorities of their country of residence, justifying this exemption. Nevertheless, when applying the exemptions established under article 14.1.k) and 14.1.l) of the consolidated text of the Non-Resident Income Tax Act, passed by Legislative Royal Decree 5/2004 of 5 March, pension funds or unit trust institutions subject to a specific supervisory system or administrative register, instead of justifying exemption by means of a certificate of residence the following documentation must be submitted: <ul style="list-style-type: none"> a) In the case of exemption under article 14.1.k), it is necessary to submit a statement signed by the representative of the pension fund stating their compliance with legal requirements, conforming to the form included under appendix VI of this Order. b) In the case of exemption under article 14.1.l), it is necessary to submit a certificate issued by the competent authority of the Member State where the institution is based, stating that said institution complies with the requirements established in Directive 2009/65/EC of the European Parliament and the Council, of 13 July 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). The relevant authority will be that designated as per article 97 of the above Directive. <p>When the self-assessment form is filed applying exemptions or reductions to the taxable amount due to tax limits established in a double taxation agreement signed by Spain, it is necessary to submit a certificate of residence for tax purposes issued by the corresponding tax authority justifying this entitlement. Said certificate must expressly state that the taxpayer is a resident within the meaning of the Agreement. However, when the self-assessment form is filed applying a tax limit established in an Agreement implemented by an Order that establishes the use of a specific form, this must be submitted instead of the aforementioned certificate.</p> <p>When, pursuant to article 24.6 of the Tax Act, expenses are deducted for the purpose of establishing the taxable base due to the taxpayer being resident in another European Union Member State, it will be necessary to submit a certificate of residence for tax purposes in the corresponding State issued by the tax authority of said State.</p> <p>Residence certificates and tax returns conforming to the form attached as appendix VI of the Order approving this form will be valid for one year after the date of issue. Nevertheless, residence certificates will have unlimited validity when the taxpayer is a foreign state, any political or administrative subdivision or corresponding local organisations of the same.</p> <p>However, in the case of self-assessed tax returns filed by jointly responsible parties who act as trustees of securities, it will be sufficient for said trustees to keep on their files the residence certificates, self-assessment forms conforming to the form attached as appendix VI of the Order approving this form and the forms referred to above during the tax period of limitation, making the same available for inspection by the Spanish tax authorities.</p> <ul style="list-style-type: none"> - Certificate of withholdings and payments on account: When withholdings and payments on account are deducted from the tax levied, documents justifying the same must be submitted. - Document accrediting the identification and ownership of the bank account: In the case of negative tax returns (refunds), it will be necessary to submit the document accrediting the identification and ownership of the bank account into which the refund is to be paid (see the section on "Refunds" in the instructions included in the payment or refund document). | | |

Documentation (cont.)

- **Accrediting a representative:** When requesting the refund to be paid into an account held by the taxpayer's legal representative, a document accrediting the latter's status as representative must be submitted containing a clause empowering the aforementioned legal representative to receive the refund on behalf on the taxpayer.

Person performing the self-assessment

Generally speaking, this tax return can be filed by the taxpayer, their appointed representative or a jointly responsible party as defined in article 9 of the Tax Act. If the refund is requested on the grounds of withholdings paid in excess, it can also be filed by the party bound to withhold.

With regard to income from urban buildings or income from the transfer of real estate assets, the tax return can only be filed by the taxpayer or, in the case of jointly owned real estate, by a married couple, when both spouses are non-residents.

"N.I.F.": All natural persons who file tax returns in Spain are assigned a tax identification number (N.I.F.).

"Surnames and name, or company name":

Natural persons: The surname, the second surname (as applicable) and the name must be entered, in that order.

Legal persons and organisations: The full name of the company or organisation must be entered. Acronyms are not allowed.

Check the corresponding box according to whether the tax return is filed by the natural person or organisation identified in this section. If the person filing the tax return fulfils several of these conditions, check the boxes corresponding to all of them.

Accrual

Income is considered to be accrued when:

- Income, on the due date or the date of payment if earlier.
- Income obtained by natural persons, owners of urban buildings, the last day of the calendar year.
- Capital gains, when the change in the asset situation takes place. In the case of transfer of real estate, indicate the date on which the transfer took place.

Group:

Several different incomes earned by the same taxpayer may be grouped together provided they correspond to the same income type code, come from the same payer and are subject to the same tax rate.

Furthermore, if these incomes derive from an asset or right, they must come from the same asset or right.

Items in an income group can never be offset against each other.

If the result of the tax return is positive (payable), check this box if you choose to group income from a single calendar quarter. Indicate the calendar quarter (1T, 2T, 3T or 4T) and the financial year of filing in the "period/year" box.

In the case of a zero charge or negative "refund" tax return, check this box if you choose to group the income obtained during the calendar year in question. Enter "0A", zero A, and the year of filing in the "period/year" box.

Date of accrual: When using this form to declare income from urban buildings, income from the transfer of real estate assets or any other separate source of income, enter the date of accrual of the income in question in "day/month/year" format. In these cases, you must also enter "0A" and the accrual year in the "period/year" box.

Income obtained

Type of income (2): Indicate the code from the accompanying list that corresponds to the type of income.

Currency key (3): Indicate the currency, from the attached list of currencies, used for payment.

Taxpayer

"N.I.F.": If the taxpayer has been assigned a Spanish tax identification number, (N.I.F.), enter it in this box.

"F/J": Use an F if the taxpayer is an individual and a J if it is a legal person or organisation.

"Surnames and name or company name":

Natural persons: The surname, the second surname (as applicable) and the name must be entered, in that order.

Legal persons and organisations: The full name of the company or organisation must be entered. Acronyms are not allowed.

"N.I.F. in the country of residence":

If the taxpayer has been assigned a tax identification number in their country or territory of residence, enter it in this box.

"Date of birth": If you have entered F in the "F/J" box, enter the taxpayer's date of birth (day/month/year).

"Place of birth": If you have entered F in the "F/J" box, enter the taxpayer's place of birth. This section has two parts:

"City": Enter the town/city of birth, and as applicable, the corresponding province or region.

"Country code": Enter the country or territory code, from the attached list of codes, corresponding to the taxpayer's place of birth.

"Tax residence: Country code" (1): Enter the code, from the list of country codes attached, corresponding to the taxpayer's country or territory of residence for tax purposes.

"Address in country of residence": Enter the corresponding address in the country of residence, according to the following instructions.

"Residence" (49): Enter the taxpayer's address in their country of residence: Type of street (street, square, avenue, road...), name of the street, house number or, as applicable, kilometre reference.

"Additional residence information" (50): If necessary, include any additional information needed to complete the address details.

"Town/City" (51): Enter the name of the town or city of residence.

"Post Code (ZIP)" (53): Enter the post code for the address.

"Province/Region/State" (54): If so required in order to correctly identify the residence, enter the name of the province, region, state, department or any other political or administrative subdivision.

"Country Code" (56): Enter the code, from the list of country or territory codes attached, corresponding to the address.

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

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| <p>* Taxpayer (cont.)</p> <p>"Land line and mobile telephone" (57) and (58): In the interests of efficiency in settling any queries that may arise during processing, enter the landline and mobile telephone numbers (57) and (58) where the taxpayer can easily be reached during normal office hours.</p> |
| <p>* Taxpayer's representative or, where applicable, residence in Spanish territory for the purpose of notifications</p> <p>If the taxpayer has appointed a representative before the Spanish tax authorities to deal with their obligations regarding this tax, enter their name in this box. In the absence of a representative, if the taxpayer has an address in Spain where they can receive notifications, enter the address here. The taxpayer is bound to appointing a representative in the cases provided for in article 10 of the Tax Act. In all other cases, such appointment is voluntary.</p> <p>"N.I.F.": Enter the representative's tax identification number. "F./J.": Enter F if the representative is a natural person, and J if they are a legal person or organisation.</p> <p>"Surnames and name or company name": Natural persons: The surname, the second surname (as applicable) and the name must be entered, in that order. Legal persons and organisations: The full name of the company or organisation must be entered. Acronyms are not allowed.</p> <p>"Representative": Legal: Check this box if you use this section to enter the details of the legal representative. Voluntary: Check this box if you use this section to enter the details of the voluntarily appointed legal representative.</p> <p>"Residence": Enter the details of the residence in question, in accordance with the following instructions.</p> <p>(31). Type of street. Enter the type of street: Street, square, avenue, roundabout, road, alley, pedestrian street, parade, etc.</p> <p>(33). Type of numbering. Enter the corresponding type of number: Number (NÚM), kilometre (KM), no number (S/N), etc.</p> <p>(34). House number. The number of the house, or the kilometre reference, if applicable.</p> <p>(35). Number qualifier. As applicable, enter the number qualifier (BIS, duplicate-DUP., modern-MOD., old-ANT., etc.) or the kilometre reference (metres).</p> <p>(41). Additional residence information. As applicable, enter any additional details required to identify the residence (for example: Urbanización El Alcotán, Edificio La Peñota, Residencial El Valle, Polígono Miralcampo, etc.).</p> <p>(42). Town/City. In this box, enter the name of the town or city if different from the municipality.</p> <p>(46) and (47). Landline and mobile telephone numbers. In the interest of efficiency in settling any queries that may arise during processing, enter the landline and mobile telephone numbers (46) and (47) where the taxpayer can easily be reached during normal office hours.</p> |
| <p>* Payer/Withholder/Issuer/Property purchaser</p> <p>In the case of income, enter the details of the party paying said income. When stating net gains subject to withholding, enter the details of the withholder in this box. When stating assignment of securities, enter the issuer's details in this box.</p> <p>In the case of income from the transfer of real estate assets, enter the details of the purchaser of the property in question in this box. When there are several purchasers, enter the name of the purchaser given as owner on form 211 for the payment of the withholding.</p> <p>Warning: Do not fill in this section when this self-assessment form is used to declare "income from urban buildings" (income type 02) or "complementary tax" (income type 27).</p> |
| <p>* Location of the property (only for income types 01, 02 and 28)</p> <p>When using this tax return to declare "earnings from urban buildings", "income from leased or sublet buildings" or "capital gains from the transfer of real estate assets", enter the details of the building in this section. See instructions on "residence" in the "representative" section.</p> <p>Property register reference (60): Enter the property register reference. You will find this on your property tax (IBI) receipt. You can also get the property register reference from the online office of the Property Registry, http://www.sedecatastro.gob.es, or by telephone, calling the Property Registry Direct Line (902 37 36 35).</p> |
| <p>* Calculation of the taxable base</p> <p>Sections I, R, G and H are individual options and only one, that which corresponds to the type of income in question, may be used on each tax return. The lower section, "Settlement" ("Liquidación"), is common to all sections.</p> <p>Generally speaking, pursuant to the provisions of article 44 of the Tax Act, the Special Tax on Real Estate Assets of Non-Resident organisations is a deductible expense for reaching the taxable base.</p> |

210 I Eligible income from real estate

Section 210 I must only be used to declare earnings from urban buildings used by natural persons for their own enjoyment.

Taxable base (4): Enter the result of applying one of the percentage amounts below, whichever corresponds, to the property register value of the building.
Applicable percentage:

- Buildings whose property register value has been reviewed or changed with effect from 1 January 1994.....1.1%
- Other buildings2%

No expenses may be deducted from the resulting amount.

The resulting amount is understood to refer to the full calendar year. The number of days is proportionally reduced when ownership has not been throughout the entire year or when it has been rented for part of the year.

If at the date of accrual of the tax (31 December) the buildings have no property register value, or the owner has not been notified of this, the taxable base of the same is calculated as 50% of that calculated for the purposes of wealth tax. This amount is the greater of the following: The price, consideration or cost price of the property, or the value of the same established by the administration for other taxes. In these cases, the percentage shall be 1.1%.

In the case of buildings under construction and in cases in which the building cannot be used for town planning reasons, no income whatsoever shall be considered.

In the case of time-sharing, the tax is payable by the holder of the right in rem, distributing the property register value on the basis of the annual period of use. If, at the time of accrual of the tax, the building has no property register value, or none has been notified to the owner, the purchase price of the right to use will be taken as the taxable base. The taxation of property income for owners of property time-share rights shall not apply when the duration is no longer than two weeks a year.

If the building is owned by several natural persons, the income from the building or usufruct is considered obtained by each owner, proportional to their ownership share.

See example in the 'Settlement' section.

210 R Income

Section 210 R is used to declare any type of income. Article 24 of the Tax Act differentiates the following systems:

1. General System (article 24.1 of the Tax Act)

Pre-tax earnings (5): Enter the pre-tax income obtained.

Dividend exemption (annual limit €1,500) (6):

Article 14.1.i) of the Tax Act establishes an exemption of up to €1,500 on dividends obtained during the calendar year. Said income must fulfil the following conditions:

- Obtained since 1 January 2007.
- By natural persons.
- Natural persons resident in another European Union Member State or in countries or territories where a valid tax exchange information system is in place (mainly, countries which have signed a double taxation agreement with Spain, with an exchange of information clause).
- Income not obtained through countries or territories listed as tax havens.
- Income and profit-sharing included under article 7.y of Act 35/2006, of 28 November.

The exemption may be applied in a single tax return or various, but any income obtained in a single calendar year may never, in total, exceed the €1,500 limit. See example in the 'Settlement' section.

Deductible expenses (7): No expenses may be deducted.

Taxable base (8): Enter the amount shown in box (5), except when declaring income from which the corresponding exemption will be deducted (box 6).

2. Economic activities from which expenses can be deducted (article 24.2 of the Tax Act)

Pre-tax earnings (5): Enter the pre-tax income amount

Deductible expenses (7): Only the following expenses can be deducted, which must fulfil the conditions established in article 5 of the Tax Regulations:

- Staff expenses
- Provisions
- Supplies

Taxable base (8): Being the difference between the amount entered in box (5) and box (7).

3. Taxpayers resident in other European Union Member States (article 24.6 of the Tax Act)

Pre-tax earnings (5): Enter the pre-tax income amount.

Dividend exemption (annual limit €1,500) (6): See instructions for this box in the General System section.

Deductible expenses (7): Expenses for each income category listed in Act 35/2006 on Personal Income Tax may be deducted from income obtained since 1 January 2010, provided the taxpayer accredits that these are directly linked to income obtained in Spain, and can accredit a direct and indissoluble link to the activity pursued in Spain.

Taxable base (8): Being the difference between the amount entered in box (5) and that in box (7), except when declaring income from which the corresponding exemption is to be deducted (box 6).

210 H Income from the transfer of real estate assets

Section 210 H is used to declare income from the transfer of real estate assets. Any profit obtained from the transfer of real estate assets is subject to tax. The profit is the difference between the transmission value and the purchase value.

"C/O": Mark "C" in this box in the case of a single tax return filed by both spouses. In other cases an "O" should be entered.

Then, enter their percentage share of the ownership of the building.

"Spouse": In the case of a single tax return filed by both spouses, enter the identification details of one spouse in the 'taxpayer' box and those of the other spouse in the 'spouse' box. In these cases, the respective ownership shares, as a percentage, must be entered in the corresponding boxes.

Transfer value (9): Enter the amount for which the asset has been transferred, after deducting any expenses and taxes inherent to the transfer and paid by the transferor.

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210 H Income from the transfer of real estate assets (cont.)

Cost price (current) (10): Enter the price at which the asset transferred was purchased, adding any expenses and taxes attached to the purchase, excluding interest, that have been paid by the current transferor. The revaluation rate corresponding to the year the asset was purchased are applied to this value. These rates are established each year in the General State Budget Act. The resulting value is deducted, as applicable, from the mandatory depreciations applied. This depreciation will be updated according the relevant year.

Difference (11): Being the difference between the amount entered in box (9) and that in box (10). $(11) = (9) - (10)$.

Net gains (12):

A) General system:

If the transferor is an organisation or legal person, whatever the date of transfer, or a natural person who purchased the asset on or after 31 December 1994, the 'net gain' (box (12)) must coincide with the amount entered in box (11), 'difference'.

B) Transitory system (Single DT TRLRNR, according to Act 35/2006, of 28 November; BOE of 29)

Only applicable if the transferor is a natural person who purchased the asset before 31 December 1994.

In these cases, only the fractional part of the capital gains generated before 20 January 2006 will be susceptible to reduction. Enter in box (12) 'net gains' the result of subtracting the corresponding reduction from the amount entered in the 'difference' box. The following rules must be followed:

Rule 1. Calculating the capital gain portion generated before 20/01/2006

The fractional part of the capital gain susceptible to reduction is determined by the proportion of the number of days elapsed from the date of acquisition up to 19 January 2006 with respect to the total number of days elapsed from the date of acquisition to the date of transfer.

Rule 2. Calculating the reduction

To determine the reduction amount, apply a reduction of 11.11% to the capital gains portion susceptible to reduction for each year (must be more than 2 years) the asset has been owned by the taxpayer since the year of acquisition and until 31-12-1996; the result is rounded up.

The following table shows the percentages by which capital gains susceptible to reduction can be reduced on the basis of the length of time the asset had been owned by the taxpayer at 31-12-1996.

| Years to 31/12/1996 | Date of acquisition | Reduction percentages |
|---------------------|--------------------------|-----------------------|
| 2 | 31/12/1994 to 31/12/1996 | 0.00% |
| 3 | 31/12/1993 to 31/12/1996 | 11.11% |
| 4 | 31/12/1993 to 30/12/1994 | 22.22% |
| 5 | 31/12/1992 to 30/12/1993 | 33.33% |
| 6 | 31/12/1991 to 30/12/1992 | 44.44% |
| 7 | 31/12/1990 to 30/12/1991 | 55.55% |
| 8 | 31/12/1989 to 30/12/1990 | 66.66% |
| 9 | 31/12/1988 to 30/12/1989 | 77.77% |
| 10 | 31/12/1987 to 30/12/1988 | 88.88% |
| From 11 | 31/12/1986 to 30/12/1990 | 100.00% |
| | 31/12/1985 to 30/12/1986 | |
| | 31/12/1984 to 30/12/1985 | |
| | 31/12/1983 to 30/12/1984 | |
| | 31/12/1982 to 30/12/1983 | |
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210 G Capital gains (except real estate)

Section 210 G is used to declare capital gains, **except those deriving from real estate assets declared in section H.**

Taxable base (18):

A) General system:

If the transferor is an **organisation or legal person, whatever the date of acquisition, or a natural person who purchased the property after 31 December 1994**, the tax base will be the difference between the sale price and cost price of the asset in question.

The transmission value will be the sale value net of expenses and taxes inherent to the transfer that have been paid by the transferor.

The cost price will be the amount paid for the asset in question, plus the expenses and taxes inherent to the acquisition, excluding interest, paid by the current transferor.

B) Transitory system: (Single DT TR/IRNR, according to Act 35/2006, of 28 November: Official State Gazette of 29)

Only applicable if the transferor is a natural person who purchased the asset before 31 December 1994.

In these cases, only the fractional part of the capital gains generated before 20 January 2006 will be susceptible to reduction. Enter in the taxable base box the result of subtracting the corresponding reduction from the difference between the cost price and the sale price. The following rules must be followed:

Rule 1. Calculating the capital gains portion generated before 20/01/2006:

Rule 1.A) Transferred asset: Shares traded on any regulated market and shares in the capital of a unit trust institution.

There are two possible cases that may arise:

- If the transmission value is equal to or higher than that established for 2005 wealth tax purposes: The capital gains generated before 20 January 2006 is the difference between the value established for 2005 wealth tax purposes and the cost price. A reduction may be applied to the resulting amount.

- If the transmission value is lower than that established for 2005 wealth tax purposes: The entire capital gains are taken to have been generated prior to 20 January 2006. This means that a reduction may be applied to the entire amount of capital gains.

IMPORTANT NOTE:

In the case of shares traded on regulated markets, the value established for 2005 wealth tax purposes can be obtained from Order EHA/492/2006, of 17 February (Official State Gazette of 27). For shares in unit trust institutions, the value established for 2005 wealth tax purposes is their cash value at 31 December 2005.

Rule 1.B) Transferred asset: Other transferred assets.

This is subject to a proportional calculation on the basis of the number of days elapsed between the date of acquisition of the asset and 19 January 2006, on the one hand, and the total number of days elapsed between the date of acquisition and that of transfer, on the other. For example: if, up to 19-1-2006, 5,700 days have elapsed, and up to the date of transfer 7,500 days have elapsed, then a reduction may be applied to 76% (5,700/7,500) of the difference between the cost price and the sale price.

Rule 2. Calculating the reduction:

To determine the amount of the reduction, the corresponding reduction percentages from the following table are applied to the portion of net gain susceptible to reduction:

- Shares traded on official secondary markets, except for shares representing capital stock in Investment Companies: 25% reduction for each year (more than 2) the asset has been owned by the taxpayer since the date of acquisition and until 31-12-1996. The number is rounded up.
- Other assets: This includes, for example, shares or stockholdings in investment funds or investment companies. The applicable reduction is 14.28% for each year (more than 2) the asset has been owned by the taxpayer since the date of acquisition and up to 31-12-1996. The number is rounded up.

Rule 3. Calculating the taxable base:

In box (18) "taxable base" enter the result of subtracting the foregoing reduction from the difference between the cost price and sale price

Settlement

Exemptions (19) and (20): When claiming an exemption, check the box corresponding to the type of exemption and enter zero in box (21) "tax rate", except in the case of an exemption provided for in article 14.1.I) of the Tax Act (dividends and similar obtained without permanent establishment by unit trust institutions regulated under Directive 2009/65/EC), in which case enter 1% (article 28.5 of the Corporation Tax Act). When applying the income exemption (limited to €1,500 per year) provided for in article 14.1.I) of the Tax Act, do not check box 19, but deduct the amount directly from the pre-tax income entered in box (6).

Tax Rate Law IRNR (21): Having determined the taxable base for one of the foregoing sections, according to the type of income in question, the tax rate established in article 25 of the Tax Act corresponding to this income is applied (see information sheet). If the tax rate is fractional (1.5%) write: 1 5 0 .

Full amount due (22): Will be calculated applying the tax rate to the taxable base. It can never be negative. When the quantity shown as the taxable base is negative, the gross amount will be entered as zero.

Deductions for donations (23): Donations made are tax-deductible under the terms of the Personal Income Tax Act.

Amount due Law IRNR (24): Being the difference between boxes (22) and (23).

Agreement percentage (25): If the applicable Agreement establishes a tax limit, generally for income, interest and levies, enter said limit, expressed as a percentage, in this box.

Agreement limit (26): Generally, in Agreements, tax limits are established as a percentage of the pre-tax income. Generally speaking, the value to be entered in this box is obtained by applying the Agreement percentage (box 25) to the amount entered in box 5 "Pre-tax income", unless the Agreement in question establishes that the percentage should be applied to a different amount.

Reduction due to Agreement (27): The taxpayer is only entitled to a reduction on the tax amount if the amount in box (26) "Agreement limit" is lower than that in box (24) "Amount due Law IRNR", taking into account the tax limit established in the Agreement. The reduction amount is the difference between boxes (24) and (26).

Reduced amount due (28): Being the difference between boxes (24) and (27).

Withholdings/payments on account (29): Enter any withholdings made and other payments on account.

Previous deposit/refund (30): Only in the event of a supplementary tax return. To determine the amount to be assigned to box (31) enter the result of the tax return originally filed for this income, but only if the previous tax return was positive (to pay), or if the corresponding refund has already been received.

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

• Settlement (cont.)

If the original tax return was positive, enter in this box the positive amount of the same, preceded by a minus sign (-).

As applicable, also enter in this box the tax payable in the IRNR settlement made by the tax authorities in relation to the original tax return and that has already been notified prior to filing this supplementary tax return.

If the tax authorities agreed to pay a refund resulting from the original IRNR tax return, enter in this box the refund amount agreed by the authorities prior to filing this supplementary tax return, preceded by a plus sign (+).

Do not fill in this box if no refund has been received at the time of filing this supplementary tax return.

Result of the self-assessment (31): Enter in this box the result of the tax return:

If this is a positive amount, it will be payable upon filing the tax return.

If it is negative, this will be the refund to be received upon filing the tax return, and must be preceded by a minus sign (-).

Examples:

Example 1: Dividends.

A dividend of €2,500 obtained on 25 June 2011 by a natural person resident in Brazil. A withholding of 19% has been made (€475). The double taxation Agreement establishes a tax limit of 15% of the pre-tax dividend amount. The annual exemption limit of €1,500 is applied to this tax return.

Determination of the taxable base

210 R Income (General System):

Pre-tax earnings (5): 2,500

Dividend exemption applied (6): 1,500

Deductible expenses (7): 0

Taxable base (8): 1,000

Settlement:

Tax Rate Law IRNR (21): 19%

Full amount due (22): 190 (1,000 x 19%)

Amount due Law IRNR (24): 190

Agreement percentage (%) (25): 15%

Agreement limit (26): 375 (2,500 x 15%)

Reduction due to Agreement (27): 0 (The Agreement limit exceeds the Amount due Law IRNR).

Reduced amount due (28): 190

Withholdings/payments on account (29): 475

Result of the self-assessment (31): - 285 (190 - 475)

Example 2: Fixed asset income.

A taxpayer resident in Portugal owns an apartment in Malaga that was purchased in 2001 for €130,000, including expenses and taxes. The rateable (land register) value of the apartment, revalued post 1 January 1994, for 2011 is €60,100. In 2011, the apartment was not rented.

In 2011, the taxpayer is liable for the following tax on accrued income:

Determination of the taxable base

210 I Income from real estate:

Taxable base (4) = 60,100 x 1.1% = 661.1

Settlement:

Tax rate Law IRNR (%) (21): 24%

Full amount due (22): 158.67 (661.1 x 24%)

Deductions for donations (23): 0

Amount due Law IRNR (22) - (23): 158.67

Reduced amount due (28): 158.67 (1)

Withholdings/payments on account (29): 0

Result of the self-assessment (31): 158.67

(1) Boxes (25), (26) and (27) are not completed because, generally speaking, in the case of income from real estate, double taxation agreements assign tax authority to the state in which the property is located, with no tax limit.

• Supplementary

If this tax return supplements one previously filed, check the "Supplementary tax return" box.

Generally speaking, after having filed the tax return, if mistakes or oversights resulting in a lower payment than that legally due appear, or a claim for a refund in excess of the correct amount are detected, a supplementary tax return must be filed to rectify the tax situation.

The supplementary tax return must include all mandatory details and any new or modified amounts together with those already correctly filed on the original form.

In the case of supplementary tax returns, box (3) must be filled in, and the receipt number of the original tax return in question must be supplied.

• Date and signature

Enter the date and signature in the space reserved for this purpose.

This tax return must be signed by the person filing the return or their representative.

In the case of a single tax return filed by both spouses and the property transferred is jointly owned by both non-resident spouses, both spouses must sign the tax return.

Information Sheet- Tax rates

- Generally (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 24% | 24.75% |

- Pensions and similar benefits

Average rate resulting from applying the following tax scale:

$$\text{Average rate} = \frac{\text{Charge}}{\text{Annual pension amount}} \times 100$$

| Annual pension payment, up to Euros | Charge Euros | Rest of pension, up to Euros | Rate applicable Percent |
|-------------------------------------|--------------|------------------------------|-------------------------|
| 0 | 0 | 12.000 | 8 |
| 12.000 | 960 | 6.700 from | 30 |
| 18.700 | 2.970 | | 40 |

- Interest and other income obtained the transfer of own assets to third parties (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 19% | 21% |

- Dividends and other income deriving from shares in company equity (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 19% | 21% |

- Income from transfer or disposal of shares representing the capital of unit trust institutions (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 19% | 21% |

- Other capital gains other than the above declared at the time of transferring assets (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 19% | 21% |

- Earnings from work carried out by natural persons not resident in Spanish territory by virtue of a fixed length contract for seasonal workers, in accordance with the provisions of labour laws..... 2%
- Earnings from work carried out by natural persons not resident in Spanish territory, provided that they are not income taxpayers, who provide services in Diplomatic Missions and Spanish Consular Representations abroad, when there are no specific rules deriving from International Treaties to which Spain is party 8%
- Royalties between associate companies, paid to a company resident in an EU Member State or to permanent establishment of said company in another EU Member State, provided certain conditions are fulfilled:

| Up to 30-06-2011 | From 1-07-2011 |
|------------------|----------------|
| 10% | 0% |

- Earnings deriving from reinsurance operations..... 1.5%
- Shipping or air transport organisations based abroad, whose ships or aircraft touch Spanish territory..... 4%
- Supplementary taxation (article 19.2 Law IRNR) (see table):

| Year of return | 2011 | 2012-2013 |
|----------------|------|-----------|
| Tax rate | 19% | 21% |

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

| | | |
|---------------------|--|---|
| Form 210 | Instructions for filling in your self-assessment form | Non-resident Income Tax Non-residents without permanent establishment. PAYMENT OR REFUND DOCUMENT. |
|---------------------|--|---|

Important: All amounts required must be expressed in euros, placing the whole number in the left hand division of the corresponding boxes, and fractions (to two decimal points) on the right.

Where to file the return

Positive tax returns:

a) The tax return may be filed and paid in any organisation collaborating in tax collection management located in Spain (banks, savings banks or co-operative banks). Generally, once the self-assessed tax return has been submitted to the collaborating organisation, there is no need for it to be placed in an envelope or sent to the Tax Agency.

When, pursuant to article 7 of the Ministerial Order approving this form, specific **documentation** must be attached to the tax return, this must be placed in the return envelope; the receipt number obtained after printing the return must be affixed to the envelope, which will then be handed in to the collaborating organisation, from where it will be sent to the Tax Agency.

b) From 1 March 2011, taxes may be paid through a foreign bank under the procedure described in the 'payment' section of these instructions. When, pursuant to article 7 of the Ministerial Order approving this form, specific **documentation** must be attached to the tax return, this, together with the 'for the collaborating organisation/administration' copy of the deposit/refund document, will be sent in an ordinary envelope, addressed to the corresponding authority. The number of the self-assessment form (210 form) should be printed on the envelope, together with the name and address of the competent authority.

Tax returns without deposit or refund (zero charge):

The 'for the collaborating organisation/administration' copy of the deposit/refund document, and any corresponding documentation, if required, must be handed in personally or sent by registered post to the competent Tax Agency office or administration attached to the same, or delivered to the corresponding Large Taxpayers Central Office or Large Corporation Management Unit if filed by taxpayers assigned to these units.

Negative tax returns (refund):

The 'for the collaborating organisation/administration' copy of the deposit/refund document, and any corresponding documentation, if required, must be handed in personally or sent by registered post to the competent Tax Agency office or administration attached to the same, or delivered to the corresponding Large Taxpayers Central Office or Large Corporation Management Unit if filed by taxpayers assigned to these units.

Criteria for determining jurisdiction

The following rules are applied for the purpose of determining the jurisdiction of territorial tax agency office, except in the case of positive tax returns filed and paid at foreign banks:

- **For earnings from real estate, income from urban buildings or gains from the transfer of real estate:** The tax agency where the property is located will have jurisdiction.
- **In all other cases:**
 - a) If the tax return is filed by a **representative**: The tax agency office corresponding to the tax address of the representative will have jurisdiction.
 - b) If the tax return is filed by a **jointly responsible party**: The tax agency office corresponding to the tax address of said jointly responsible party will have jurisdiction.
 - c) In the case of a **negative tax return filed by a withholder**: The tax agency office corresponding to the tax address of the withholder will have jurisdiction.
 - d) If the tax return is filed by **the taxpayer**: The tax agency office corresponding to the taxpayer's tax address will have jurisdiction. In the absence of a Representative:
 - 1) In the case of income: The tax agency corresponding to the payer's tax address.
 - 2) In the case of capital gains, if these are subject to withholdings, the tax agency corresponding to the withholder's tax address; if not subject to withholding, the tax agency corresponding to the tax address of the trustee or manager of the assets or rights or, failing that, the Madrid branch of the Tax Agency.

However, the Large Taxpayers Central Office and Large Corporation Management Units will have jurisdiction in the case of tax returns filed by taxpayers assigned to these organisations in the case of returns filed by the taxpayer, and in accordance with paragraph d) above, the representative, jointly responsible party or withholder that determine jurisdiction is a taxpayer assigned to the foregoing office or units.

In the case of positive tax returns paid through a foreign bank, the authority assigned by means of a jurisdiction resolution will have jurisdiction.

Filing deadline

The period for filing and paying, as applicable, tax returns depends on the type of income in question and is as follows:

- a) **Income from the transfer of real estate:** Irrespective of the result, self-assessments for income from the transfer of real estate must be filed within three months after the one-month period subsequent to the date of transfer (date of accrual) of the asset has elapsed.
- b) **Income from real estate located in Spain:** The tax return must be filed within the calendar year following the date of accrual (31 December of each year).
- c) **Other income:**
 - 1. Positive tax returns (to pay): Tax returns must be filed and paid within the first twenty calendar days of April, July, October and January for income accrued in the quarter preceding these dates.
 - 2. Zero charge tax returns: These must be filed between 1 and 20 January of the year following accrual of the income in question.
 - 3. Negative tax returns (refund): These must be filed from 1 February of the year following accrual of the income in question and within four years following the end of the period for filing and paying withholdings. This is applicable to all self-assessed tax returns, irrespective of whether the refund derives from

Filing period (cont.)

the internal rules of a particular double taxation Agreement, and even if a shorter period is stipulated in the implementing Order of the Agreement. The deadline for filing the self-assessment will be understood to conclude on the date it is filed.

Person performing the self-assessment

"N.I.F.": The tax return must contain the tax identification number (N.I.F.) assigned in Spain to the party filing the tax return.

"Surnames and name or company name":

Natural persons: The surname, the second surname (as applicable) and the name must be entered, in that order.

Legal persons and organisations: The full name of the company or organisation must be entered. Acronyms are not allowed.

Accrual

Income is considered to be accrued when:

- Income, on the due date or the date of payment if earlier.
- Income obtained by natural persons, owners of urban buildings, the last day of the calendar year.
- Capital gains, when the change in the asset situation takes place. In the case of transfer of real estate, indicate the date on which the transfer took place.

Group:

Several different incomes earned by the same taxpayer may be grouped together provided they correspond to the same income type code, come from the same payer and are subject to the same tax rate.

Furthermore, if these incomes derive from an asset or right, they must come from the same asset or right.

Items in an income group can never be offset against each other.

If the tax return is positive (to pay), check this box when choosing to group the income accrued in a single calendar quarter. Indicate the calendar quarter (1T, 2T, 3T or 4T) and the financial year of filing in the 'period/year' box.

In the case of a zero charge or negative tax return, check this box when choosing to group the income accrued during a calendar year. Enter '0A', zero A, and the year of filing in the 'period/year' box.

Date of accrual: When using this form to declare income from urban buildings, income from the transfer of real estate assets or any other separate source of income, enter the date of accrual of the income in question in 'day/month/year' format. In these cases, enter '0A' and the year corresponding to the date of accrual in the 'period/year' box.

Result of the self-assessment

Enter the result of the tax return (box 311). If this result is negative (refund), enter the number preceded by a minus sign (-).

Payment

Amount: If the tax return is positive (to pay), enter the amount here (box 311).

Through a collaborating organisation located in Spain:

The tax return may be filed and paid at any tax agency partner organisation located in Spain (banks, savings banks and co-operative banks).

Through a foreign bank:

From 1 March 2011, it will be possible the pay tax returns by bank transfer from a foreign bank, according to the following instructions:

From the Tax Agency Internet portal www.agenciatributaria.es fill in form 210 with the corresponding information, then print the form together and its corresponding payment document with its receipt number.

When filling in the form, remember the following:

a) The party filing the tax return must be the taxpayer.

b) The name of the foreign bank from which the transfer is made, and if applicable, the bank account, must be given.

Following this, pay the amount resulting from the self-assessment by means of a bank transfer for the corresponding amount, in euros, from a foreign bank account.

c) The transfer must be sent to the Banco de España account detailed on the Tax Agency web page.

When making the transfer, the "beneficiary" of the same must be the receipt number of the payment document that was obtained when printing the tax return. This number must be followed by the words "AEAT" (Beneficiary: 250NNNNNNNNNN-AEAT).

Likewise, the "subject" field must also contain the receipt number of the payment document followed by the words "AEAT", a space, and then, in order to identify the sender, the words "NIF" followed by the tax identification number assigned in Spain to the taxpayer. If said number has not been made available at the time of filing in the form, include the identification number that will be supplied at this time. This number is only valid for the purpose of filing this form. The NIF assigned in Spain, or failing that, the identification number assigned, must be used in the future when filing tax returns.

(Subject: 250NNNNNNNNNN-AEAT NIF-XXXXXXX)

d) Once payment and the details of the transfer have been received, these are associated with the corresponding tax return by means of a receipt number.

e) When, pursuant to article 7 of the Ministerial Order approving this form, specific documentation must be attached to the tax return, this, together with the "for the collaborating organisation/administration" copy of the deposit/refund document, will be sent in an ordinary envelope, addressed to the corresponding authority. The number of the self-assessment form (210 form) should be printed on the envelope, together with the name and address of the competent authority.

ANNEX 1. MAIN TAX FORMS TO BE COMPLETED BY LIFE INSURANCE COMPANIES

| |
|---|
| <p>* Rebate</p> <p>Amount: If the tax return is negative (refund), enter the amount here (box [31]).</p> <p>Refunds will be paid by bank transfer to the account indicated in the deposit/refund document. The holder of said account may be one of the following:</p> <ul style="list-style-type: none">a) The party filing the tax return. However, if the tax return is filed by the taxpayers' representative, the refund may only be paid into an account held by the taxpayers' legally authorised representative.b) The taxpayer. <p>If the refund is to be paid into an account held by one of the parties filing the tax return in their capacity as jointly responsible party, withholder or legally authorised representative, the bank account must be held in Spain. However, if the bank account is held by the taxpayer, it may be opened either in a Spanish bank or, from 1 March 2012, in a foreign bank.</p> <p>When the refund is to be paid by bank transfer, the corresponding account number must be supplied.</p> <p>NB: As a temporary measure, until 1 March 2012, refunds may be paid to accounts held by the taxpayer's representative</p> <p>"Refund waiver": This box should be checked if the taxpayer waives the refund.</p> |
| <p>* Nothing to pay or refund</p> <p>If neither refund nor payment apply, check the "zero charge" box.</p> |
| <p>* Date and signature</p> <p>Enter the signature and date in the space provided for this purpose.</p> <p>The document must be signed by the party filing the tax return or their representative.</p> <p>In the case of a single tax return filed by a both spouses, and the property transferred is jointly owned by both non-resident spouses, both must sign the tax return.</p> |

Ayuda **Castellano** **Català** **Galego** **Valencià** **Rellenar Formulario**

Agencia Tributaria
Teléfono: 901 335 533
www.agenciatributaria.es

Impuesto sobre la Renta de no Residentes
Rentas obtenidas sin mediación de establecimiento permanente
RETENCIONES E INGRESOS A CUENTA
DECLARACIÓN-DOCUMENTO DE INGRESO

Modelo 216

Declarante (1)
Espacio reservado para la etiqueta identificativa
216455545704 1

Devengo (2)
Ejercicio Período

Si la declaración es negativa y no dispone de etiquetas, consigne a continuación sus datos identificativos
N.I.F. Apellidos y Nombre o Razón social

Liquidación (3)

| | I Rentas sometidas a retención/ingreso a cuenta: | II Rentas no sometidas a retención/ingreso a cuenta: |
|---|--|--|
| N.º de rentas | 01 <input type="text"/> | 04 <input type="text"/> |
| Base de retenciones e ingresos a cuenta / Importe de las rentas | 02 <input type="text"/> | 05 <input type="text"/> |
| Retenciones e ingresos a cuenta | 03 <input type="text"/> | |
| A deducir (exclusivamente en caso de declaración complementaria): | | |
| Resultado a ingresar de anteriores declaraciones por el mismo concepto, ejercicio y período | 06 <input type="text"/> | |
| Resultado a ingresar (03 - 06) | 07 <input type="text"/> | |

Ingreso (4)
Ingreso efectuado a favor del **Tesoro Público**, cuenta restringida de colaboración en la recaudación de la AEAT de autoliquidaciones especiales.
Importe del ingreso (casilla 07)
Forma de pago: ☐ En efectivo ☐ E.C. adeudo en cuenta
Código cuenta cliente (CCC)
Entidad Sucursal DC Número de cuenta

Negativa (5)
☐ **Declaración negativa**

Firma (7)
Fecha:
Firma:

Complementaria (6)
Si esta declaración es complementaria de otra declaración anterior correspondiente al mismo concepto, ejercicio y período, indíquelo marcando con una "X" esta casilla.
☐ **Declaración complementaria**
En este caso, consigne a continuación el número de justificante identificativo de la declaración anterior.
N.º de justificante:

Este documento no será válido sin la certificación mecánica o, en su defecto, firma autorizada

Rellenar Formulario **Castellano** **Català** **Galego** **Valencià** **Ejemplar para el declarante**


Ver. 1.0/2010


Annex 2

Main tax forms to be completed by non-life insurance companies (in addition to Form 210)

- a) Form 430 «Insurance Premium Tax»
- b) Form 480 «Annual Summary Insurance Premium Tax»

Annex 2

| | | | |
|---|---|--|----------------------|
|  MINISTERIO DE ECONOMÍA Y HACIENDA | Agencia Tributaria Delegación Administración | Impuesto sobre las Primas de Seguros Declaración mensual | Modelo 430 |
|---|---|--|----------------------|

| | | |
|---------------------------|---|--|
| Identificación (1) | Espacio reservado para la etiqueta identificativa | Devengo (2) Ejercicio Período <div style="text-align: center;"> 430458624476 1  </div> |
| | N.I.F. Apellidos y nombre o Denominación o Razón social Calle, Plaza, Avda. Domicilio fiscal, nombre vía pública Número Esc. Piso Pta. Teléfono Municipio Código Provincia Código Postal | |

| | |
|---------------------------------------|---|
| Sujeto Pasivo no residente (3) | N.I.F. Denominación o Razón social Dirección Postal País Clave País |
|---------------------------------------|---|

| | |
|------------------------|--|
| Liquidación (4) | Base imponible 1 Tipo impositivo 2 % Cuota a ingresar 3 Bonificaciones 4 A deducir: (En caso de declaración complementaria, resultado a ingresar de declaraciones anteriores) 5 Resultado a ingresar (3 - 4 - 5) 6 |
|------------------------|--|

| | |
|---------------------------|---|
| Complementaria (5) | Si esta declaración es complementaria de otra declaración anterior correspondiente al mismo concepto, ejercicio y período, indíquelo marcando con una "X" esta casilla. <input type="checkbox"/> Declaración complementaria En este caso, consigne a continuación el número de justificante identificativo de la declaración anterior. N.º de justificante |
|---------------------------|---|

| | |
|--------------------|--|
| Ingreso (6) | Ingreso efectuado a favor del TESORO PÚBLICO, cuenta restringida de colaboración en la recaudación de la A.E.A.T., de declaraciones-liquidaciones y autoliquidaciones. Forma de pago: <input type="checkbox"/> En efectivo <input type="checkbox"/> E.C. Adeudo en cuenta Importe: I <div style="text-align: center;"> Código cuenta cliente (CCC) Entidad: Oficina DC Núm. de cuenta </div> |
|--------------------|--|


| | |
|------------------|--|
| Firma (7) | Fecha: Firma del sujeto pasivo o representante fiscal |
|------------------|--|

Este documento no será válido sin la certificación mecánica o, en su defecto, firma autorizada

Ejemplar para el sujeto pasivo

Ver. 31/2008

ANNEX 2. MAIN TAX FORMS TO BE COMPLETED BY NON-LIFE INSURANCE COMPANIES



Agencia Tributaria
Delegación de
Administración de
Código Admón.


**Impuesto sobre las
Primas de Seguros**
Declaración Resumen anual en euros

Modelo
480

Identificación (1)

Espacio reservado para la etiqueta identificativa
(Si no dispone de etiquetas, haga constar a continuación sus datos identificativos, así como los de su domicilio fiscal)

483458169140 5



Devengo (2)

Ejercicio

N.I.F.

Apellidos y nombre o Denominación o Razón social

Calle, Plaza, Avda. Domicilio fiscal, nombre vía pública

Municipio País Código Postal

Número

Esc.

Piso

Puerta

Teléfono

Declaración sustitutiva (3)

Quando la presentación de esta declaración tenga por objeto anular o sustituir completamente a otra declaración anterior del mismo ejercicio en la cual se hubieran consignado datos inexactos o erróneos, marque una "X" y haga constar a continuación el número identificativo de la declaración anterior que se sustituye mediante la nueva.

Declaración sustitutiva Número identificativo

Sujeto Pasivo no residente (4)

N.I.F. Denominación o Razón Social

Dirección Postal País Clave País

Operaciones realizadas en el ejercicio por ramos de seguro (5)

| | Bases impositivas sujetas y no exentas | Bases impositivas exentas | Total bases impositivas |
|---|---|------------------------------|----------------------------|
| Vida | 01 | 02 | 03 |
| Accidentes | 04 | 05 | 06 |
| Enfermedades y asistencia sanitaria | 07 | 08 | 09 |
| Vehículos terrestres | 10 | 11 | 12 |
| Vehículos ferroviarios | 13 | 14 | 15 |
| Vehículos aéreos | 16 | 17 | 18 |
| Vehículos marítimos, lacustres y fluviales | 19 | 20 | 21 |
| Mercancías transportadas | 22 | 23 | 24 |
| Incendios y elementos naturales | 25 | 26 | 27 |
| Seguros agrarios combinados | 28 | 29 | 30 |
| Otros daños en los bienes (Robo u otros) | 31 | 32 | 33 |
| Responsabilidad Civil Vehículos terrestres automóviles: | | | |
| Seguro obligatorio | 34 | 35 | 36 |
| Seguro voluntario | 37 | 38 | 39 |
| Responsabilidad Civil en Vehículos aéreos | | | |
| Responsabilidad Civil en Vehículos marítimos, lacustres y fluviales | 40 | 41 | 42 |
| Responsabilidad Civil general: | | | |
| Derivada de riesgos nucleares | 43 | 44 | 45 |
| Otros riesgos | 46 | 47 | 48 |
| Crédito | | | |
| Caución | 49 | 50 | 51 |
| Pérdidas pecuniarias diversas | 52 | 53 | 54 |
| Defensa jurídica | 55 | 56 | 57 |
| Asistencia | 58 | 59 | 60 |
| Decesos | 61 | 62 | 63 |
| TOTALES | 64 | 65 | 66 |

Ver. 3.0/2008

Ejemplar para el sujeto pasivo

Agencia Tributaria **Impuesto sobre las Primas de Seguros. Declaración Resumen anual en euros** **Pág. 2**

Datos identificativos de esta hoja interior

N.I.F. Apellidos y Nombre o Razón social

Modelo 480

Resultado liquidación anual (6)

| | Base Imponible | Tipo | Cuota |
|---|----------------------|----------------------|----------------------|
| Operaciones sujetas y no exentas | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Operaciones sujetas y no exentas | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Rectificación de operaciones de ejercicios anteriores | <input type="text"/> | | <input type="text"/> |
| Bonificaciones | | | <input type="text"/> |
| Resultado liquidación anual (75 + 78 + 80 + 81) | | | <input type="text"/> |

Resultado liquidaciones periódicas (7)

Ingresos realizados en las declaraciones-liquidaciones por el Impuesto sobre Primas de Seguros del ejercicio:

| | Cuota a ingresar | | Cuota a ingresar |
|------------------------------|------------------|---------------------------------|------------------|
| Enero <input type="text"/> | | Julio <input type="text"/> | |
| Febrero <input type="text"/> | | Agosto <input type="text"/> | |
| Marzo <input type="text"/> | | Septiembre <input type="text"/> | |
| Abril <input type="text"/> | | Octubre <input type="text"/> | |
| Mayo <input type="text"/> | | Noviembre <input type="text"/> | |
| Junio <input type="text"/> | | Diciembre <input type="text"/> | |
| TOTAL | | <input type="text"/> | |

Datos del representante y firma de la declaración (8)

PERSONAS JURÍDICAS

Declaración de los Representantes legales de la Entidad

El (los) abajo firmante(s), como representante(s) legal(es) de la Entidad declarante, manifiesta(n) que todos los datos consignados se corresponden con la información contenida en los libros oficiales exigidos por la legislación mercantil y en la normativa del Impuesto.

En testimonio de lo cual firma(n) la presente declaración

En a de de

| Por poder, | Por poder, | Por poder, |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| D. | D. | D. |
| N.I.F. | N.I.F. | N.I.F. |
| Fecha Poder | Fecha Poder | Fecha Poder |
| Notaría | Notaría | Notaría |

FIRMA DE LA DECLARACIÓN

Fecha:

Firma:

ver. 3.0/2008 Ejemplar para el sujeto pasivo

The image displays two screenshots of the 'Sede Electrónica' (Electronic Office) interface for the Agencia Tributaria (Tax Agency) of Spain, showing the 'Declaración Resumen anual' (Annual Summary Declaration) for the 2016 tax year.

Top Screenshot: Shows the 'Resumen anual' section. The user is logged in as 'Usuario 402404'. The interface includes a header with the Agencia Tributaria logo and 'Sede Electrónica' text. The main area is titled 'Impuesto sobre las primas de seguro' (Tax on insurance premiums) and 'Modelo 400, ejercicio 2016' (Form 400, year 2016). The declaration is for 'Declaración Resumen anual' (Annual Summary Declaration). The user is prompted to 'Elaborar' (Prepare) the declaration. The interface includes a sidebar with navigation options like 'Crear archivo PDF', 'Exportar archivo PDF', 'Compartir', 'Organizar páginas', 'Imprimir', 'Borrar y borrar', 'Preparar formulario', 'Enviar para firmar', and 'Comprobar archivo'. The main area contains a table with columns for 'Código', 'Descripción', 'Importe', and 'Total'. The table lists various tax categories and their corresponding amounts.

Bottom Screenshot: Shows the 'Resumen anual' section with a detailed breakdown of the 'Resumen anual' and the 'Resumen anual' section. The user is logged in as 'Usuario 402404'. The interface includes a header with the Agencia Tributaria logo and 'Sede Electrónica' text. The main area is titled 'Impuesto sobre las primas de seguro' (Tax on insurance premiums) and 'Modelo 400, ejercicio 2016' (Form 400, year 2016). The declaration is for 'Declaración Resumen anual' (Annual Summary Declaration). The user is prompted to 'Elaborar' (Prepare) the declaration. The interface includes a sidebar with navigation options like 'Crear archivo PDF', 'Exportar archivo PDF', 'Compartir', 'Organizar páginas', 'Imprimir', 'Borrar y borrar', 'Preparar formulario', 'Enviar para firmar', and 'Comprobar archivo'. The main area contains a table with columns for 'Código', 'Descripción', 'Importe', and 'Total'. The table lists various tax categories and their corresponding amounts.



Segundo Ruiz Rodríguez

Annex 3

Consortium Forms

- a) Form 10 «Extraordinary risks, direct damages»
- b) Form 11 «Extraordinary risks, loss of profits»
- c) Form 20 «Compulsory motor insurance»
- d) Form 50 «Surcharge to cover the liquidation activity of the insurance companies»
- e) Statistical sheets extraordinary risks
 - Form 0
 - Form 1
 - Form 2
 - Form 4
 - Form 4 bis
 - Form 5
 - Form 6

LAW FOR INSURERS IN SPAIN AND PORTUGAL

| | | | | |
|--|--|---|---|----|
|  MINISTERIO DE ECONOMÍA Y HACIENDA | CONSORCIO DE COMPENSACIÓN DE SEGUROS Pº Castellana, 32 - 28046 Madrid TEL. 91 239 57 01 FAX. 91 239 56 54 / 91 239 56 78 NIF - Q240611E correo: a_defin@consorciogur.es |  CONSORCIO DE SEGUROS * DE SEGUROS * RECAUDACIÓN - COBRAR | RIESGOS EXTRAORDINARIOS DAÑOS DIRECTOS | 10 |
|--|--|---|---|----|

| | | | | | | | | |
|---|------------------------------------|---|--|--|--|--|--|--|
| NIF: _____ RAZÓN SOCIAL: _____ | CLAVE DE EMPRESA: _____ | CLAVE DE EMPRESA: <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr> </table> | | | | | | |
| | | | | | | | | |
| CALLE PLAZA: _____ | NÚMERO VÍA PÚBLICA: _____ | JURISDICCIÓN: <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> </table> | | MES: <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 20px; height: 20px;"></td></tr> </table> | | | | |
| | | | | | | | | |
| | | | | | | | | |
| NÚMERO: _____ ESCALERA: _____ PISO: _____ PUERTA: _____ | TELÉFONO: _____ | | | | | | | |
| MUNICIPIO: _____ PROVINCIA: _____ | CÓDIGO POSTAL: _____ ESTADO: _____ | | | | | | | |

| TIPO DE RIESGO | CÓDIGO | RECAUDOS DEL C.C.S. EN EL MES | | | | | RECAUDOS POR TIPO DE RIESGO | INTERESES POR FRACCOINMENTO |
|--|-----------|-------------------------------|-----------|------------|----------|-------|-----------------------------|-----------------------------|
| | | DE PRIMA CONTRACONVENIMIENTO | | | | | | |
| | | NO FRACCOINADO | SEMESTRAL | TRIMESTRAL | BIESTRAL | ANUAL | | |
| A DAÑOS DIRECTOS EN LOS BIENES: | | | | | | | | |
| Viviendas y Comunidades de Propietarios de viviendas | 10 | | | | | | | |
| Oficinas | 13 | | | | | | | |
| Comercio, Almacenes y resto Riesgos Seguros | 20 | | | | | | | |
| Riesgos Industriales | 20 | | | | | | | |
| Turismos y vehículos comerciales hasta 3.500 kg | 40 | | | | | | | |
| Camiones | 41 | | | | | | | |
| Vehículos Industriales | 42 | | | | | | | |
| Tractores y maquinaria agrícola y forestal | 43 | | | | | | | |
| Autobuses, Grúas y Grúas | 44 | | | | | | | |
| Ramplones y semiorbitales | 45 | | | | | | | |
| Cisternas, cisternas, etc. | 46 | | | | | | | |
| Motocicletas | 48 | | | | | | | |
| Otros daños | 70 | | | | | | | |
| TOTALES | 50 | | | | | | | |

| | | | | | |
|----------------------------|--------------|--------|----------------|-----------------------------|---------------|
| TOTAL DAÑOS BIENES: | CONTRIBUCIÓN | I.V.A. | RECAUDOS NETOS | INTERESES POR FRACCOINMENTO | TOTAL LIQUIDO |
| | | | | | |

| DAÑOS DIRECTOS EN LAS PERSONAS: | CÓDIGO | RECAUDOS DEL C.C.S. EN EL MES | | | | | RECAUDOS POR TIPO DE RIESGO | INTERESES POR FRACCOINMENTO |
|---------------------------------|-----------|-------------------------------|-----------|------------|----------|-------|-----------------------------|-----------------------------|
| | | DE PRIMA CONTRACONVENIMIENTO | | | | | | |
| | | NO FRACCOINADO | SEMESTRAL | TRIMESTRAL | BIESTRAL | ANUAL | | |
| B | | | | | | | | |
| Accidentes | 81 | | | | | | | |
| Vida | 82 | | | | | | | |
| TOTALES | 80 | | | | | | | |

| | | | | | |
|------------------------------|--------------|--------|----------------|-----------------------------|---------------|
| TOTAL DAÑOS PERSONAS: | CONTRIBUCIÓN | I.V.A. | RECAUDOS NETOS | INTERESES POR FRACCOINMENTO | TOTAL LIQUIDO |
| | | | | | |



| | | |
|---|--|--|
| Yo, _____ con NIF _____, como representante legal de la Entidad, con domicilio en _____ CERTIFICO: Dado mi personal responsabilidad que los datos que anteceden concuerdan con los datos contables de la Entidad. _____ 09 _____ 09 _____ Firma: _____ | <input type="checkbox"/> Sin Recargos sujetos a liquidación. Si la liquidación resulta en importe a ingresar marque una X en el recuadro: TOTAL A INGRESAR: <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 100px; height: 20px;"></td></tr> </table> | |
| | | |

| |
|------------|
| REFERENCIA |
| |

| | | | |
|--------------------|---------|-------|---------------------|
| ENTREGA DE CREDITO | SUORSAL | FECHA | SELLO DE LA ENTIDAD |
|--------------------|---------|-------|---------------------|

Espacio reservado para certificación médica

ANNEX 3. CONSORTIUM FORMS

| | | | | |
|---|--|---|--|----|
|  | CONSORCIO DE COMPENSACION DE SEGUROS Pº Castellana, 32 - 28046 Madrid TEL. 91 339 67 01. FAX: 91 339 68 64 / 91 339 68 78 NIF: Q28260116 correo_e: dafa@consorsseguros.es |  | RIESGOS EXTRAORDINARIOS PÉRDIDA DE BENEFICIOS | 11 |
|---|--|---|--|----|

| | | |
|---------------------------|---------------------|---|
| NIF: _____ | RAZÓN SOCIAL: _____ | |
| CALLE, PLAZA: _____ | | CLAVE DE EMPRESA: _____ EJERCICIO: _____ MES: _____ |
| NOMBRE VÍA PÚBLICA: _____ | | |
| NÚMERO: _____ | ESCALERA: _____ | PISO: _____ |
| PUERTA: _____ | | TELÉFONO: _____ |
| MUNICIPIO: _____ | | PROVINCIA: _____ |
| COD. POSTAL: _____ | | ESTADO: _____ |

| TIPO DE RIESGO | CÓDIGOS | RECARGOS DEL C.C.S. EN EL MES | | | | | | RECARGOS POR TIPO DE RIESGO | INTERESES POR FINANCIAMIENTO |
|--|-------------|-------------------------------|----------|---------|-------|----------|-------|-----------------------------|------------------------------|
| | | DE PRIMA CON FINANCIAMIENTO | | | | | | | |
| | | NO FINANCIADO | COMPLETO | TRÁFICO | ROBOS | INCENDIO | OTROS | | |
| PERÍODO DE BENEFICIOS | | | | | | | | | |
| Viviendas y Comunidades de Propietarios de Viviendas | P 10 | | | | | | | | |
| Otras | P 13 | | | | | | | | |
| Comercio, Almacenes y resto de Riesgos Benéficos | P 20 | | | | | | | | |
| Riesgos Industriales | P 30 | | | | | | | | |
| Obras civiles | P 70 | | | | | | | | |
| TOTALES | P 80 | | | | | | | | |

| | | | | | |
|-------------------------------------|------------|--------|----------------|------------------------------|---------------|
| | COMISIONES | I.V.A. | RECARGOS NETOS | INTERESES POR FINANCIAMIENTO | TOTAL USUARIO |
| TOTAL PÉRDIDA DE BENEFICIOS: | | | | | |

| | |
|---|---|
| D. _____ con NIF _____ como representante legal de la Entidad, manifiesta que: CERTIFICACIÓN: Dejo mi personal responsabilidad que los datos que anteceden concuerdan con los datos contables de la Entidad. de _____ de _____ Firma: _____ | <input type="checkbox"/> Sin Recargos sujetos a liquidación. Si la liquidación resulta sin importe a ingresar marque con 'X' en el recuadro. <div style="border: 1px solid black; height: 20px; width: 100%;"></div> TOTAL A INGRESAR: <div style="border: 1px solid black; height: 20px; width: 100%;"></div> |
|---|---|

| | | |
|--------------------|---------|-------|
| ENTIDAD DE CRÉDITO | SUJOSAL | FECHA |
|--------------------|---------|-------|

| |
|---------------------|
| SELLO DE LA ENTIDAD |
|---------------------|

| |
|------------|
| REFERENCIA |
|------------|

MODELO 20: SEGURO OBLIGATORIO DEL AUTOMÓVIL

| | | | | |
|---|---|---|--|-----------|
|  | <p>GOBIERNO DE CANTABRIA</p> <p>DESIGNE</p> <p>2ª CANTABRIA, 25-05-2015</p> <p>TEL. 91 323 27 000 - 91 323 16 54 / 91 323 16 51</p> <p>NºF. 0267011E</p> <p>CÓDIGO DE BARRAS 0267011E</p> |  | <p>SEGRU OBLIGATORIO DEL AUTOMÓVIL</p> | <p>20</p> |
|---|---|---|--|-----------|

| | | | | | | | | | | | | | |
|-------------|--|---------------|--|---------|------------------|--|---|-----|----------|-------|--|---------|--|
| NOMBRE | | RACION SOCIAL | | CALLE | CLAVE DE EMPRESA | | <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> | | | | | | |
| CALLE PLAZA | | NOMBRE VIA | | | CORTEDIDO | | <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> | | | | | | |
| | | | | | M20 | | <div style="border: 1px solid black; width: 20px; height: 15px; display: inline-block;"></div> | | | | | | |
| NUMERO | | ESQUINA | | | R20 | | PUERTA | | TELEFONO | | | | |
| TELÉFONO | | | | ESQUINA | | | | DCC | | POTEN | | KEY-5-3 | |

| SEGUILO ELIGATORIO | | CODIGO | NOMAS DISTRITO REG. APL. | RECARGOS DEL C.C.S. EN EL MES | | | | RECARGOS POR VIGILANCIA | RECARGOS POR EMERGENCIAS |
|--------------------|----|--------|--------------------------------|-------------------------------|-----------------------------------|------------|-------------|-------------------------------|--------------------------------|
| | | | | NO EMERGENCIAS | 27 DIAS DE SUSPENSIÓN DE SERVICIO | | | | |
| | | | | | SERVIDOS | INDIVIDUAL | EMERGENCIAS | | |
| RENTAS | 01 | | | | | | | | |
| TOTAL | | 01 | | | | | | | |

[illegible]

ENTIDAD DE CREDITO



SECRET

FEEDBACK

SELO DE LA ENTIDAD

Español reservado para certificación mecánica

ANNEX 3. CONSORTIUM FORMS


| | | | | |
|---|--|--|---|-----------|
|  <p>MINISTERIO DE ECONOMÍA Y FINANZAS</p> | <p>CONSORCIO DE COMPENSACIÓN DE SEGUROS</p> <p>Pl. Castellana, 32 - 28045 Madrid TEL. 91 339 57 01 - FAX. 91 339 55 54 / 91 339 55 78 NºF. 02625011E consorco_w_dfin@consorceseguros.es</p> |  <p>CONSORCIO DE COMPENSACIÓN DE SEGUROS</p> | <p>RECARGO PARA FINANCIAR LA ACTIVIDAD LIQUIDADORA DE ENTIDADES ASEGURADORAS</p> | <p>50</p> |
|---|--|--|---|-----------|

| | | |
|--------------------|--------------------------|-------------------------|
| NºF. _____ | RACIÓN SOCIAL: _____ | CLAVE DE EMPRESA: _____ |
| CALLE, PLAZA _____ | NOMBRE VÍA PÚBLICA _____ | EURODIO: _____ |
| | | TRIMESTRE: _____ |
| NÚMERO _____ | ESCALERA: _____ | PISO: _____ |
| PUERTA: _____ | | TE. SPONSO: _____ |
| MUNICIPIO: _____ | PROVINCIA: _____ | COD. POSTAL: _____ |
| ESTADO: _____ | | |

| RAMOS DE SEGUROS | CÓDIGOS | PRIMA DEBUTADA EN EL TRIMESTRE | NO FRACIONADOS | RECARGOS DEL C.C.S. EN EL TRIMESTRE | | | | RECARGOS POR RAMOS | INTERESES POR FRACIONAMIENTO |
|---|---------|--------------------------------|----------------|-------------------------------------|------------|------------|------------|--------------------|------------------------------|
| | | | | DE PRIMA CON FRACIONAMIENTO | | | | | |
| | | | | SEMESTRAL | TRIMESTRAL | TRIMESTRAL | TRIMESTRAL | | |
| Accidentes | 010 | | | | | | | | |
| Enfermedad | 020 | | | | | | | | |
| Vehículos terrestres | 030 | | | | | | | | |
| Vehículos ferroviarios | 040 | | | | | | | | |
| Vehículos aéreos | 050 | | | | | | | | |
| Vehículos marítimos, lacustres y fluviales | 060 | | | | | | | | |
| Mercedes transportadas | 070 | | | | | | | | |
| Incendios y siniestros naturales | 080 | | | | | | | | |
| Otros daños en los bienes | 090 | | | | | | | | |
| Seguros agrarios combinados | 100 | | | | | | | | |
| Otros daños | 110 | | | | | | | | |
| Responsabilidad Civil Vehículos terrestres automóviles | 120 | | | | | | | | |
| Seguros Obligación | 130 | | | | | | | | |
| Seguros voluntario | 140 | | | | | | | | |
| Responsabilidad Civil en Vehículos aéreos | 150 | | | | | | | | |
| Responsabilidad Civil en Vehículos marítimos, lacustres y fluviales | 160 | | | | | | | | |
| Responsabilidad Civil de aviación | 170 | | | | | | | | |
| Daños de riesgos nucleares | 180 | | | | | | | | |
| Otros riesgos | 190 | | | | | | | | |
| Crédito | 200 | | | | | | | | |
| Cautión | 210 | | | | | | | | |
| Pérdidas pecuniarias diversas | 220 | | | | | | | | |
| Defensa jurídica | 230 | | | | | | | | |
| Asistencia | 240 | | | | | | | | |
| Derechos | 250 | | | | | | | | |
| TOTALES: | 300 | | | | | | | | |

| | |
|---|---|
| <p>D. _____, con N.ºF. _____, como representante legal de la Entidad, con domicilio en _____</p> <p>CERTIFICO: Bajo mi personal responsabilidad que los datos que anteceden concuerdan con los datos contables de la Entidad.</p> <p>_____ de _____ de _____</p> <p>Firma</p> | <p><input type="checkbox"/> Sin Recargos sujetos a liquidación</p> <p>Si la liquidación resulta en imputo a ingresos marque una 'X' en el recuadro.</p> <p>TOTAL A INGRESAR</p> <p>_____</p> <p>REFERENCIA</p> <p>_____</p> |
|---|---|

| | | | |
|--------------------|----------|-------|---------------------|
| ENTIDAD DE CRÉDITO | SUCURSAL | FECHA | SELLO DE LA ENTIDAD |
|--------------------|----------|-------|---------------------|



Riesgos Extraordinarios
Hoja de envío de la Documentación

MODELO 0

Pº de la Castellana, 32
 28046 MADRID
 TEL: (91) 336 55 00
 FAX: (91) 336 55 95

AÑO ESTADÍSTICO: (1)

Nombre completo de la Entidad: _____

Claves: _____

Dirección: _____

Teléfono: _____

Representante Legal: _____

Persona o teléfono de contacto: _____

Correo electrónico de la persona de contacto: _____

Documentación que envía:

| Número de fichas | |
|---|------------------------|
| <input style="width: 40px;" type="text"/> | FICHAS DEL MODELO 1 |
| <input style="width: 40px;" type="text"/> | FICHA DEL MODELO 2 |
| <input style="width: 40px;" type="text"/> | FICHA DEL MODELO 3 |
| <input style="width: 40px;" type="text"/> | FICHA DEL MODELO 4 |
| <input style="width: 40px;" type="text"/> | FICHA DEL MODELO 4 bis |
| <input style="width: 40px;" type="text"/> | FICHAS DEL MODELO 5 |
| <input style="width: 40px;" type="text"/> | FICHA DEL MODELO 6 |

Declaración sobre la veracidad de la documentación:


DECLARO: que la información contenida en los modelos que se envían coincide con los libros de Registros y pólizas emitidas por la Entidad, siendo conforme con la legislación vigente.

Y para que conste, formulo la presente declaración en _____

El Representante Legal,
(firma y sello)

(1) Año al que se refiere la información que se facilita.


ANNEX 3. CONSORTIUM FORMS

| | | | | | | | | | | | | | | |
|--|--|--|-------------------------------------|-------------------------------------|------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|---|--------------------------------|--|--|--|--|
|  | Riesgos Extraordinarios Daños Directos en los Bienes | MODELO 1 | | | | | | | | | | | | |
| | <small>Pº de la Castellana, 32 28045-MADRID TEL.: (91) 339 55 96 FAX.: (91) 339 55 96</small> | TODOS LOS IMPORTES EN EUROS ENTEROS, SIN DECIMALES | | | | | | | | | | | | |
| ENTIDAD: <input type="text"/> | | AÑO ESTADÍSTICO: <input type="text"/> | | | | | | | | | | | | |
| DATOS DE LA PÓLIZA: | | CLAVE: <input type="text"/> | | | | | | | | | | | | |
| Número de la póliza <input type="text"/> | | | | | | | | | | | | | | |
| Clase de póliza <input type="text"/> (1) | | | | | | | | | | | | | | |
| Fecha de efecto <input type="text"/> (2) | | | | | | | | | | | | | | |
| Duración (número de meses) <input type="text"/> | | | | | | | | | | | | | | |
| Asegurado (nombre o denominación social) <input type="text"/> | | | | | | | | | | | | | | |
| DATOS DEL RIESGO: | | | | | | | | | | | | | | |
| Clase de riesgo <input type="text"/> (3) | | | | | | | | | | | | | | |
| Clase de Obra Civil, en su caso <input type="text"/> (4) | | | | | | | | | | | | | | |
| Provincia de localización <input type="text"/> (5) | | | | | | | | | | | | | | |
| Municipio de localización <input type="text"/> (5) | | | | | | | | | | | | | | |
| CAPITAL TOTAL EN RIESGO (EUROS): (6) | | | | | | | | | | | | | | |
| Fijo <input type="text"/> | | | | | | | | | | | | | | |
| Flotante máximo <input type="text"/> | | | | | | | | | | | | | | |
| TOTAL <input type="text"/> | | | | | | | | | | | | | | |
| Periodo de declaración flotante, en su caso (meses) <input type="text"/> | | | | | | | | | | | | | | |
| SEGUROS O GARANTÍAS A PRIMER RIESGO O CON LÍMITE DE INDEMNIZACIÓN: | | | | | | | | | | | | | | |
| Capital asegurado a primer riesgo o límite de indemnización (EUROS) <input type="text"/> (7) | | | | | | | | | | | | | | |
| Número de situaciones <input type="text"/> (8) | | | | | | | | | | | | | | |
| Coeficiente multiplicador aplicado o porcentaje de la prima o valor total <input type="text"/> (9) | | | | | | | | | | | | | | |
| RECARGO INGRESADO A FAVOR DEL CCS (EUROS) <input type="text"/> (10) | | | | | | | | | | | | | | |
| CLÁUSULA DE MARGEN O FLUCTUACIÓN DE CAPITALS (EUROS) <input type="text"/> (11) | | | | | | | | | | | | | | |
| COBERTURA DE RIESGOS EXTRAORDINARIOS POR PARTE DE LA COMPAÑÍA (12) | | | | | | | | | | | | | | |
| NO <input type="checkbox"/> SI TOTAL <input type="checkbox"/> SI PARCIAL <input type="checkbox"/> | | | | | | | | | | | | | | |
| <table border="1"> <tr> <td>Inundación <input type="checkbox"/></td> <td>Terrorismo <input type="checkbox"/></td> </tr> <tr> <td>Terremoto <input type="checkbox"/></td> <td>Rebelión <input type="checkbox"/></td> </tr> <tr> <td>Maremoto <input type="checkbox"/></td> <td>Sedición <input type="checkbox"/></td> </tr> <tr> <td>Erupción volcánica <input type="checkbox"/></td> <td>Motín <input type="checkbox"/></td> </tr> <tr> <td>Tempestad ciclónica atípica <input type="checkbox"/></td> <td> tumulto popular <input type="checkbox"/></td> </tr> <tr> <td>Caída cuerpos siderales y aeródicos <input type="checkbox"/></td> <td>Hechos FF.AA. <input type="checkbox"/></td> </tr> </table> | | | Inundación <input type="checkbox"/> | Terrorismo <input type="checkbox"/> | Terremoto <input type="checkbox"/> | Rebelión <input type="checkbox"/> | Maremoto <input type="checkbox"/> | Sedición <input type="checkbox"/> | Erupción volcánica <input type="checkbox"/> | Motín <input type="checkbox"/> | Tempestad ciclónica atípica <input type="checkbox"/> | tumulto popular <input type="checkbox"/> | Caída cuerpos siderales y aeródicos <input type="checkbox"/> | Hechos FF.AA. <input type="checkbox"/> |
| Inundación <input type="checkbox"/> | Terrorismo <input type="checkbox"/> | | | | | | | | | | | | | |
| Terremoto <input type="checkbox"/> | Rebelión <input type="checkbox"/> | | | | | | | | | | | | | |
| Maremoto <input type="checkbox"/> | Sedición <input type="checkbox"/> | | | | | | | | | | | | | |
| Erupción volcánica <input type="checkbox"/> | Motín <input type="checkbox"/> | | | | | | | | | | | | | |
| Tempestad ciclónica atípica <input type="checkbox"/> | tumulto popular <input type="checkbox"/> | | | | | | | | | | | | | |
| Caída cuerpos siderales y aeródicos <input type="checkbox"/> | Hechos FF.AA. <input type="checkbox"/> | | | | | | | | | | | | | |

INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 1

- (1) La "Clase de Póliza" se reflejará según los códigos de la Tabla Número 1.
- (2) La "Fecha de Efecto" de la póliza se consignará con el formato DDMM/AA.
- (3) La "Clase de Riesgo" se consignará según los códigos de la Tabla Número 2. Si en una póliza existiera más de una clase de riesgo, se utilizará el código que corresponda a la clase de riesgo de mayor cuantía de capital respecto del capital total de la póliza.
- (4) "Clase de Otra Civil": cuando la clase de riesgo sea obra civil (clave 60), se consignará el código que le corresponda de acuerdo con la Tabla Número 3. Si en una misma póliza hubiera más de una obra civil, se confeccionarán tantas fichas Modelo 1 como clases de obra civil existan, acumulando los capitales correspondientes a cada clase.
- (5) En el dato relativo a "Provincia de Localización" se reflejará el nombre de la provincia y se consignará el código de la Tabla Número 4 que corresponda. En el relativo a "Municipio de Localización" se consignará, igualmente, el nombre del municipio, quedando reservado al Consorcio la cumplimentación del código del mismo. Si existieran diferentes situaciones de riesgo con distintos lugares de localización, se reflejará el lugar que concentre el mayor porcentaje de capital respecto del total en riesgo.
- (6) Para cumplimentar los datos relativos al "Capital Total en Riesgo" se tendrá en cuenta lo siguiente:
 - Los capitales se expresarán en EUROS ENTEROS, SIN DECIMALES.
 - Los capitales serán los correspondientes a los daños directos en los bienes, por tanto, los capitales correspondientes a las coberturas de pérdida de beneficios no se incluirán en este modelo.
 - El "Capital Flotante" será el máximo garantizado por la póliza en tal concepto.
 - El "Capital Total" será la suma de los capitales fijo y flotante (máximo).
 - El "Periodo de Declaración" del capital flotante se expresará en meses, y será el que corresponda en función de la declaración de existencias (así, por ejemplo, si la declaración de existencias es mensual, se pondrá "01").
 - Aunque exista seguro a primer riesgo, la cifra del capital fijo, flotante y total deberá referirse a la totalidad del valor en riesgo de los bienes de la póliza, o de la situación de riesgo, en su caso (ver llamada (7)).
- (7) Se reflejará en este campo el capital máximo garantizado por la póliza para daños directos en los bienes, que incluirá el capital asegurado a primer riesgo o límite de indemnización de aquellos bienes para los que exista este tipo de cobertura más, en su caso, el capital total del resto de los bienes.
 Por otra parte, si en la póliza se estableciera una cobertura a primer riesgo o con límite de indemnización por situación de riesgo, para una, varias o todas las de la póliza, deberán cumplimentarse tantas fichas Modelo 1 como situaciones con primer riesgo o límite independiente y, en su caso, otra ficha para el resto de situaciones con primer riesgo conjunto o a valor total. No obstante, si en el caso anterior existieran varias situaciones (o todas) con un límite independiente pero del mismo importe, se podrá cumplimentar para todas ellas una sola ficha Modelo 1, haciendo constar en este apartado el mencionado importe, especificando en el apartado (9) el número de situaciones de riesgo al que afecta, y haciendo figurar en el apartado de "Capital Total en Riesgo" la suma de los correspondientes a dichas situaciones.
 Se expresará en EUROS ENTEROS, SIN DECIMALES.
- (8) Se hará constar en este apartado, en su caso, el "Número de Situaciones" de riesgo para las que se aplica un primer riesgo o límite de indemnización individual del mismo importe, tal como se ha descrito en el apartado anterior.
- (9) Se facilitará el "Coeficiente Multiplicador" o el "Porcentaje de la prima a valor total" según el cuadro del apartado D) de la tarifa en vigor.
- (10) Se expresará, en EUROS ENTEROS, SIN DECIMALES, el importe total efectivamente ingresado en el Consorcio de Compensación de Seguros en concepto de recargo correspondiente a la cobertura de daños directos en los bienes de la póliza o situación para la que se cumplimenta la ficha.
- (11) Cuando exista "Cláusula de Margen" o "Fluctuación de Capitales", se incluirá en las casillas al efecto el importe (EUROS ENTEROS, SIN DECIMALES) y/o porcentaje sobre el capital.
- (12) Se reconocerá si es la Compañía la que cubre los riesgos extraordinarios total o parcialmente y, en su caso, el capital cubierto por la Compañía (EN EUROS ENTEROS, SIN DECIMALES) según la causa del siniestro. Si el capital fuese el mismo para dos o más causas, se hará constar en la primera, marcando con "X" la primera casilla de las demás.

ANNEX 3. CONSORTIUM FORMS



Riesgos Extraordinarios
Danos Directos en los Bienes

Nº 2016-Catálogo 12
2004/AMAD/12
FEs: 1/1/2017-31/12/17
PAB: 25/1/2017-31/12/17

MODELO 2

Y TODOS LOS IMPORTES EN EUROS EN TEROS, SIN DECIMALES

ENTIDAD:

AÑO ESTADÍSTICO:

CLAVE:

SEGUROS ANUALES O DE DURACIÓN SUPERIOR AL AÑO

| VIVIENDAS Y COMUNIDADES DE PROPIETARIOS DE VIVIENDAS | | |
|--|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

| OFICINAS | | |
|-------------------------|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

| COMERCIOS, ALMACENES Y RESTO DE RIESGOS SENCILLOS | | |
|---|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

| INDUSTRIALES | | |
|-------------------------|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

SEGUROS DE DURACIÓN INFERIOR AL AÑO

| VIVIENDAS Y COMUNIDADES DE PROPIETARIOS DE VIVIENDAS | | |
|--|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

| OFICINAS | | |
|-------------------------|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

| COMERCIOS, ALMACENES Y RESTO DE RIESGOS SENCILLOS | | |
|---|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |


| INDUSTRIALES | | |
|-------------------------|------------------------------|-------------------------|
| Nº POLIZAS | CAPITALES ASEGURADOS (Euros) | VALORES TOTALES (Euros) |
| TOTAL RIESGOS | | |
| SEGUROS A PRIMER RIESGO | | |

INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 2

El modelo 2 se cumplimentará conforme a las siguientes instrucciones:

- 1º A los efectos de confeccionar los datos de "Número de Pólizas" y "Capitales", cada póliza se asignará a un solo grupo de riesgo, y si incluyera más de uno, a aquél que represente el mayor porcentaje del capital total asegurado.
- 2º En las filas de "Total Riesgos", tanto anuales como temporales, se deberá recoger la totalidad de las pólizas, incluidas las de seguros a primer riesgo cuyo detalle se facilitará en la línea siguiente, teniendo en cuenta como "Capital Asegurado" el capital a primer riesgo o límite de indemnización, y como "Valor Total" el valor en riesgo.
- 3º Los datos de capitales se expresarán en **EUROS ENTEROS, SIN DECIMALES**.

Los capitales serán los correspondientes a los daños directos en los bienes, por tanto, los capitales correspondientes a las coberturas de pérdida de beneficios no se incluirán en este modelo.



Riesgos Extraordinarios
Daños Directos en las Personas

Pr de la Castellana, 32
28046-MADRID
TEL: (91) 339 55 88
FAX: (91) 339 55 86

Vida y sus complementarios de Accidentes

MODELO A

TOCOS LOS IMPORTES EN EUROS ENTEROS SIN DECIMALES

ENTIDAD:

ANO ESTADISTICO:

CLAVE:

| CLASE DE SEGURO | | Nº DE POLIZAS | | CAPITALES EN RIESGO | | VALORES TOTALES | |
|-----------------|--|----------------------------|-------------------------------------|------------------------------------|-------------------------------------|------------------------------------|-------------------------------------|
| | | Duración inferior a un año | Anuales o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anuales o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anuales o duración superior (EUROS) |
| INDIVIDUALES | TOTAL | | | | | | |
| COLECTIVOS | Á PRIMER RIESGO | | | | | | |
| | QUE INSTRUMENTAN COMPROMISOS POR PENSIONES | | | | | | |


INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 4

El Modelo 4 se cumplimentará conforme a las siguientes instrucciones:

- 1º Cada póliza y su capital se incluirá solo en una de las "Clases de Seguro" definidas en el modelo.
- 2º En los "Seguros Individuales" se facilitará el total de las pólizas individuales de vida (con o sin complementarios de accidentes) que otorguen coberturas exclusiva o principalmente de fallecimiento, invalidez permanente e incapacidad temporal; y los capitales en riesgo utilizados para el cálculo del recargo del Consorcio.
- 3º En los "Seguros Colectivos" se facilitará el TOTAL de las pólizas colectivas de vida (con o sin complementarios de accidentes) que otorguen coberturas exclusiva o principalmente de fallecimiento, invalidez permanente e incapacidad temporal, excepto las "pólizas colectivas que instrumenten compromisos por pensiones" que se incluirán siempre; y los capitales en riesgo utilizados para el cálculo del recargo del Consorcio.

Se especificará en la línea de "Colectivos a primer riesgo" las pólizas que tienen establecido seguro a primer riesgo o con límite de indemnización facilitando, además de los capitales en riesgo (o límites de indemnización), los Valores Totales en Riesgo.

Se especificará en la línea de "Colectivos que instrumenten compromisos por pensiones" las pólizas y los capitales en riesgo, utilizados para el cálculo del recargo del Consorcio, de este tipo de seguro.
- 4º En todos los casos, los "Capitales en Riesgo" serán los capitales que sirvieron de base para la aplicación de la tarifa.
- 5º Los "Capitales en Riesgo", "Valores Totales" y "Prima del Seguro Ordinario" se expresarán en EUROS ENTEROS, SIN DECIMALES.



Riesgos Extraordinarios
Datos Directos en las Personas

MODELO 413a

Cobertura exclusiva de Accidentes

TODOS LOS IMPORTES EN EUROS ENTEROS SIN DECIMALES

ENTIDAD:

ANO ESTADISTICO:

CLAVE:

1ª de 15 cadenas. 32
28046424892
TEL: (91) 339 55 09
FAX: (91) 339 55 96

| CLASE DE SEGURO | Nº DE PÓLIZAS | | CAPITALES ASEGURADOS | | VALORES TOTALES | |
|---------------------------|----------------------------|-----------------------------------|------------------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| | Duración inferior a un año | Anual o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anual o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anual o duración superior (EUROS) |
| INDIVIDUALES | | | | | | |
| TOTAL | | | | | | |
| COLECTIVOS | | | | | | |
| A PRIMER RIESGO | | | | | | |
| ACCIDENTES EN VIAJE | | | | | | |
| SEGURO OCUPANTES VEHICULO | | | | | | |

| SEGURO OBLIGATORIO DE VIAJEROS | Nº DE PÓLIZAS | | PRIMAS SEGURO ORDINARIO | |
|--------------------------------|----------------------------|-----------------------------------|------------------------------------|-----------------------------------|
| | Duración inferior a un año | Anual o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anual o duración superior (EUROS) |
| | | | | |


INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 4 bis

El Modelo 4 bis se cumplimentará conforme a las siguientes instrucciones:

- 1^ª Cada póliza y su capital asegurado se incluirá solo en una de las "Clases de Seguro" definidas en el modelo.
- 2^ª En los "Seguros Individuales" se facilitará el total de las pólizas individuales de accidentes que otorguen coberturas de fallecimiento, invalidez permanente e incapacidad temporal y los capitales asegurados utilizados para el cálculo del recargo del Consorcio.
- 3^ª En los "Seguros Colectivos" se facilitará el TOTAL de las pólizas colectivas de accidentes que otorguen coberturas de fallecimiento, invalidez permanente e incapacidad temporal y los capitales asegurados utilizados para el cálculo del recargo del Consorcio.

Se especificará en la línea "Colectivos o primer riesgo" las pólizas que tienen establecido seguro a primer riesgo o con límite de indemnización facilitando, además de los capitales asegurados (o límites de indemnización), los Valores Totales en Riesgo.
- 4^ª En la clase de "Accidentes en Viaje" se recogerán únicamente aquellas pólizas de accidentes en viaje cuya cobertura esté vinculada al pago del viaje con tarjeta de crédito y sus capitales asegurados.
- 5^ª En el "Seguro de Ocupantes de Vehículo" se recogerán los datos relativos al número de pólizas de accidentes de este tipo de seguro y sus capitales asegurados.
- 6^ª En el "Seguro Obligatorio de Viajeros" se recogerán los datos relativos al número de pólizas de accidentes de este tipo de seguro y las primas comerciales del seguro ordinario sobre las que se calcularon los recargos del Consorcio.
- 7^ª En todos los casos, los "Capitales Asegurados" serán los capitales que sirvieron de base para la aplicación de la tarifa.
- 8^ª Los "Capitales Asegurados", "Valores Totales" y "Primas del Seguro Ordinario" se expresarán en EUROS ENTEROS, SIN DECIMALES.

ANNEX 3. CONSORTIUM FORMS


| | | |
|--|---|--|
|  | <p>Riesgos Extraordinarios</p> <p>Cobertura de Pérdida de Beneficios</p> <p>consecuencia de daños Directos en los Bienes</p> | <div style="border: 1px solid black; padding: 2px; display: inline-block;"> MODELO 5 </div> |
| <p><small>PR-01-13 Contratación 30</small></p> <p><small>28055. MADRID</small></p> <p><small>Tel: 91 330 56 00</small></p> <p><small>Fax: 91 330 35 90</small></p> | <p>TODOS LOS IMPORTES EN EUROS, SIN DECIMALES</p> | |
| <p>AÑO ESTADÍSTICO: </p> | | |
| <p>ENTIDAD: CLAVE: </p> | | |
| <p>DATOS DE LA POLIZA:</p> | | |
| <p>NUMERO DE LA POLIZA </p> <p>FECHA DE EFECTO (1) </p> <p>DURACION DE LA COBERTURA (meses) </p> <p>PERIODO DE INDEMNIZACION (meses) </p> <p>NOMBRE DEL ASEGURADO </p> | | |
| <p>DATOS DEL RIESGO:</p> | | |
| <p>CLASE DE RIESGO: (2) </p> <p>CLASE DE OBRA CIVIL (en su caso) (3) </p> <p><u>LOCALIZACIÓN GEOGRÁFICA:</u> (4)</p> <p>PROVINCIA </p> <p>MUNICIPIO </p> | | |
| <p>DATOS DE LA COBERTURA (EUROS) :</p> | | |
| <p>CAPITAL TOTAL ASEGURADO (5) </p> <p>LIMITE DE INDEMNIZACION (6) </p> <p>CLÁUSULA DE MARGEN (7) %</p> <p>FRANQUICIA (8) %</p> <p style="text-align: right;">(100) </p> | | |
| <p>RECARGO A FAVOR DEL C.C.S. (EUROS) (9) </p> | | |
| <p>COBERTURA DE RIESGOS EXTRAORDINARIOS POR PARTE DE LA COMPAÑIA (10) NO <input type="checkbox"/> SI TOTAL <input type="checkbox"/> SI PARCIAL <input type="checkbox"/></p> | | |

INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 5

COBERTURA DE PÉRDIDA DE BENEFICIOS:

- (1) La "Fecha de Efecto" de la póliza se consignará con el formato DD/MM/AA.
- (2) La "Clase de Riesgo" se consignará según los códigos de la Tabla Número 2, en virtud del capital de la póliza de daños. Si en una póliza existiera más de una clase de riesgo, se utilizará el código que corresponda a la clase de riesgo de mayor cuantía de capital respecto del capital total de la póliza de daños.
- (3) "Clase de Obra Civil": cuando la clase de riesgo sea obra civil (clave 09), se consignará el código que le corresponda de acuerdo con la Tabla Número 3. Si en una misma póliza hubiera más de una obra civil, se utilizará el código que corresponda a la clase de obra civil de mayor cuantía de capital respecto del capital total de la póliza.
- (4) En el dato relativo a "Provincia de Localización" se reflejará el nombre de la provincia y se consignará el código de la Tabla Número 4 que corresponda.
En el relativo a "Municipio de Localización" se consignará, igualmente, el nombre del municipio, quedando reservado al Consorcio la cumplimentación del código del mismo.
Si existieran diferentes situaciones de riesgo con distintos lugares de localización, se reflejará el lugar que concentre el mayor porcentaje de capital de daños respecto del capital total en riesgo.
- (5) El "Capital Total Asegurado" será el previsto en la póliza si es distinto del límite de indemnización.
- (6) Se reflejará en este campo el capital máximo garantizado por la póliza para pérdida de beneficios.
- (7) Cuando exista "Cláusula de Margen" en pérdida de beneficios se indicará en los casillas al efecto el importe y/o el porcentaje sobre el capital.
- (8) Se reflejará en este campo la franquicia establecida en la póliza ordinaria mediante un importe fijo, un porcentaje sobre el capital y/o un número de días.
- (9) Se expresará, en EUROS ENTEROS, SIN DECIMALES, el importe total efectivamente ingresado en el Consorcio de Compensación de Seguros en concepto de recargo correspondiente a la cobertura de pérdida de beneficios consecuencia de daños directos en los bienes de la póliza.
- (10) Se recogerá si es la Compañía la que cubre los riesgos extraordinarios total o parcialmente.

ANNEX 3. CONSORTIUM FORMS



Riesgos Extraordinarios
Cobertura de Pérdida de Beneficios
consecuencia de daños Directos en los Bienes

Pº de la Castellana, 32
28046-MADRID
TEL: (91) 339 50 00
FAX: (91) 339 55 96

MODELOS

TODOS LOS IMPORTES EN EUROS ENTEROS, SIN DECIMALES

ENTIDAD:

AÑO ESTADÍSTICO:

CLAVE:

| CLASE DE ACTIVIDAD GARANTIZADA EN PÉRDIDA DE BENEFICIOS | | Nº DE PÓLIZAS | | LÍMITE DE INDEMNIZACIÓN | | CAPITAL TOTAL ASEGURADO | |
|--|-----------------------------|-------------------------------|--------------------------------|--|---|--|---|
| | | Duración inferior a un año | Anuales o duración superior | Duración inferior a un año (EUROS) | Anuales o duración superior (EUROS) | Duración inferior a un año (EUROS) | Anuales o duración superior (EUROS) |
| VIVIENDAS Y COMUNIDADES DE VIVIENDAS | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |
| OFICINAS | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |
| COMERCIO Y RESTO GENERALES | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |
| INDUSTRIALES | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |
| OBRAS CIVILES | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |
| VEHÍCULOS AUTOMÓVILES | TOTALES | | | | | | |
| | con límite de indemnización | | | | | | |

INSTRUCCIONES PARTICULARES PARA CUMPLIMENTAR LA FICHA MODELO 6

COBERTURA DE PERDIDA DE BENEFICIOS

El modelo 6 se cumplimentará conforme a las siguientes instrucciones:

- 1º A los efectos de confeccionar los datos de "Número de Pólizas" y "Capitales", cada póliza se asignará a un solo grupo según la actividad garantizada en pérdida de beneficios.
- 2º Para determinar la duración de la póliza, de duración inferior a un año y anuales o de duración superior, se tendrá en cuenta la duración de cobertura.
- 3º En las filas de "Totales", tanto anuales como temporales, se deberá recoger la totalidad de las pólizas, incluidas las de límite de indemnización cuyo detalle se facilitará en la línea siguiente, teniendo en cuenta como "Límite de Indemnización" el capital a primer riesgo, y como "Capital Total Asegurado" el capital previsto en la póliza si es distinto del límite de indemnización.
- 4º Los datos de capitales se expresarán en **EUROS ENTEROS SIN DECIMALES**.

Los capitales serán los correspondientes a la pérdida de beneficios consecuencia de los daños directos en los bienes.

Annex 4

Some relevant forms required by Spanish anti- money laundering regulations

- a) Form 22 «Proposal to appoint the Representative»
- b) Form 22-6 «Communication of Authorized Person»
- c) Form 22-7 «Communication of outside expert»
- d) Form 19 «Communication of suspicious transactions»



Court of Justice of the European Union

PRESS RELEASE No 54/13

Luxembourg, 25 April 2013

Press and Information

Judgment in Case C-212/11
Jyske Bank Gibraltar Ltd v Administración del Estado

EU law does not preclude Spanish legislation which requires credit institutions, operating in Spain without being established there, to forward directly to the Spanish authorities information necessary for combatting money laundering and terrorist financing

Where there is no effective mechanism ensuring full and complete cooperation between the Member States which would allow those crimes to be combatted effectively, that legislation is proportionate

The directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing¹ imposes certain disclosure obligations, in particular, on credit institutions. For that purpose, it requires each Member State to establish a central financial intelligence unit (FIU) responsible for receiving, analysing and disseminating to the competent authorities information concerning potential money laundering or terrorist financing². The directive provides for that information to be forwarded to the FIU of the Member State in whose territory the institution is situated.

Spanish legislation requires credit institutions operating in Spain, regardless of the place of their establishment, to inform the Spanish FIU of account transfers of more than €30,000 to or from tax havens and uncooperative territories, such as Gibraltar.

Jyske, a branch of the Danish bank NS Jyske Bank, is a credit institution established in Gibraltar which operates in Spain under the rules on the freedom to provide services, that is to say, without being established there.

In January 2007, the Spanish FIU requested Jyske to provide it with certain information. It considered that there was a very high risk that Jyske was being used for money laundering operations in the context of its activities in Spain. The mechanism used for this purpose consisted in creating in Gibraltar corporate structures intended to prevent detection of the identity of the actual owner of property acquired in Spain, essentially on the Costa del Sol, and of the origin of the monies used. In June 2007, Jyske sent some of the information requested, but it refused to provide the data on the identity of its clients and documentation on suspicious transactions carried out in Spain, relying on the banking secrecy rules applicable in Gibraltar. Therefore, the Consejo de Ministros (Council of Ministers, Spain), considering that Jyske had failed to fulfil its disclosure obligations under Spanish legislation, imposed on it two public reprimands and two financial penalties totalling €1 700 000.

Jyske considers that the directive imposes on it an obligation of disclosure only vis-à-vis the Gibraltar FIU and that, therefore, the Spanish legislation does not comply with the directive. The bank, therefore, brought an action before the Tribunal Supremo (Supreme Court, Spain), which decided to refer a question to the Court of Justice on that subject.

¹ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ 2005 L 309, p. 15).

² The United Kingdom was authorised to also notify an FIU in Gibraltar.

In today's judgment, the Court declares that **the directive does not expressly preclude the possibility of requiring credit institutions carrying out activities in Spain under the freedom to provide services to forward the required information in respect of the fight against money laundering and terrorist financing directly to the Spanish FIU. Therefore, the directive does not, in principle, preclude the Spanish legislation**, in so far as it seeks to strengthen, in compliance with EU law, the effectiveness of the fight against those crimes. Therefore, it cannot compromise the principles established by the directive concerning the reporting requirements on the part of entities subject to them, nor can it impair the effectiveness of existing forms of cooperation and exchange of information between the FIUs.

The Court assesses next whether the Spanish legislation complies with the freedom to provide services. The Court considers that it constitutes a restriction on that freedom, in so far as it gives rise to difficulties and additional costs. Furthermore, that legislation is liable to be additional to the controls already conducted in the Member State where the institution at issue is situated, thus dissuading it from carrying out such activities.

However, that restriction on the freedom to provide services can be justified by overriding reasons in the public interest, such as the fight against money laundering and terrorist financing. Therefore, the national court must determine whether the legislation at issue is appropriate for attaining that aim, in particular, whether it allows Spain to supervise and suspend suspicious financial transactions concluded by credit institutions offering their services in the national territory and, if appropriate, to pursue and punish those responsible. In that regard, the Court points out that such legislation enables Spain to supervise all financial transactions carried out by credit institutions in its territory, whatever the manner in which those institutions have chosen to provide their services, which appears to be suitable so as to attain, effectively and coherently, the aim pursued.

The national court must then determine whether that legislation is applied in a non-discriminatory manner and whether it is proportionate, that is to say, suitable for securing the attainment of the aim pursued without going beyond what is necessary in order to attain it. Therefore, the legislation would be disproportionate where the cooperation mechanism established between the FIUs of the different Member States already allowed the Spanish FIU to obtain the required information through the FIU of the Member State where the credit institution is situated. In that regard, **the Court notes that that mechanism for cooperation between FIUs suffers from certain deficiencies**. In particular, there are important exceptions to the requirement for the requested FIU to forward the information requested to the applicant FIU. In effect, an FIU may refuse to divulge information which could hinder a judicial inquiry carried out in the Member State, either where such divulgence would have consequences which are clearly disproportionate in the light of the legitimate interests of a person or the Member State concerned, or where such would result in an infringement of the fundamental principles of national law³. Moreover, when combatting money laundering, the authorities must act as quickly as possible, but no provision is made for a time-limit for information to be forwarded, nor for sanctions in case of unjustified refusal on the part of the requested FIU to forward the requested information. Furthermore, recourse to that mechanism of cooperation raises specific difficulties with regard to activities carried out under the freedom to provide services. Therefore, **where there is no effective mechanism, at the time of the facts, ensuring full and complete cooperation between the FIUs and allowing money laundering and terrorist financing to be combatted just as effectively, that legislation is proportionate**.

³ Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information (OJ 2000 L 271, p. 4).

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell (+352) 4303 3355

Segundo Ruiz Rodríguez

www.curia.europa.eu

ANNEX 4. SOME RELEVANT FORMS REQUIRED BY SPANISH ANTI- MONEY...

SEPBLAC

Servicio Ejecutivo de la Comisión de
Prevención del Blanqueo de Capitales
e Infracciones Monetarias

PROPUESTA DE NOMBRAMIENTO DE REPRESENTANTE (F22)

Datos del sujeto obligado

| | |
|---|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre / Razón social | |
| Apellido 1 ² | Apellido 2 ² |
| Tipo de sujeto obligado ³ | |
| Código B.E. ⁴ | |
| Domicilio | |
| País | Provincia |
| Municipio | Código postal |
| Teléfono | Fax |
| Correo electrónico | |

Datos del representante propuesto

| | |
|--|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre | |
| Apellido 1 | Apellido 2 |
| Domicilio ⁵ | |
| País | Provincia |
| Municipio | Código postal |
| Teléfono | Fax |
| Correo electrónico | |
| Cargo de administración o dirección que ejerce | |

Datos del representante que cesa en el cargo (si procede)

| | |
|---|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre | |
| Apellido 1 | Apellido 2 |

Firma:⁶

¹ CIF, DNI/NIF, Pasaporte, NIE, etc.

² A cumplimentar exclusivamente si el sujeto obligado es una persona física.

³ Deberá seleccionarse entre los tipos recogidos en el artículo 2.1 de la Ley 10/2010.

⁴ Código Banco de España (sólo en caso de entidades sujetas a registro en el Banco de España).

⁵ Domicilio del centro de trabajo del representante.

⁶ Firma de quien acredite los extremos señalados en el punto 2 de la página siguiente o, en su caso, del titular de la actividad.

SEPBLAC

Según lo dispuesto en el artículo 26 de la Ley 10/2010 y en el artículo 12 del Reglamento de la Ley 19/1993, los sujetos obligados han de comunicar al Servicio Ejecutivo una propuesta de nombramiento de representante ante aquél. Las funciones del representante serán las señaladas en el artículo 26 de la Ley 10/2010 y la propuesta de nombramiento contendrá, por cada sujeto obligado, la siguiente documentación:

1. Propuesta de nombramiento (Formulario F22) firmada por quien acredite los extremos señalados en el punto 2 siguiente o, en su caso, por el titular de la actividad.
2. Documentación que acredite que el representante ha sido nombrado por el órgano de dirección del sujeto obligado (certificación del acuerdo del consejo de administración o de órgano equivalente).
3. Documentación que acredite suficientemente la firma de la persona nombrada como representante (por ejemplo, copia del Documento Nacional de Identidad).
4. Documentación que recoja una descripción detallada de la trayectoria profesional del representante propuesto (por ejemplo, *curriculum vitae*).

En aquellos casos en que los sujetos obligados sean empresarios o profesionales individuales, el representante será el titular de la actividad, remitiéndose únicamente al Servicio Ejecutivo la documentación señalada en los puntos 1 y 3 anteriores.

La documentación mencionada habrá de ser enviada en soporte papel a la dirección:

Sepblac
Calle Alcalá, 48
28014 Madrid

De acuerdo con el artículo 26 de la mencionada Ley, los sujetos obligados deberán aprobar y tener a disposición del Servicio Ejecutivo un manual adecuado, con información completa de las medidas de control interno establecidas y destinadas a prevenir e impedir operaciones relacionadas con el blanqueo de capitales o la financiación del terrorismo.

Dichas medidas de control interno podrán establecerse a nivel de grupo, de acuerdo con la definición recogida en su artículo 24.2.a), siempre que dicha decisión se comunique al Servicio Ejecutivo, con especificación de los sujetos obligados comprendidos dentro de la estructura del grupo. La comunicación de estos datos se hará por escrito en soporte papel a la dirección que figura más arriba y recogerá, en todo caso, la razón social y el número de documento identificativo (CIF) de los sujetos obligados que estén comprendidos en el grupo al que se aplique el manual, así como la fecha de entrada en vigor del mismo.

ANNEX 4. SOME RELEVANT FORMS REQUIRED BY SPANISH ANTI- MONEY...

SEPBLAC
Servicio Ejecutivo de la Comisión de
Prevención del Blanqueo de Capitales
e Infracciones Monetarias

COMUNICACIÓN DE PERSONA AUTORIZADA (F22-6)

La persona que figura en "datos del representante", en su calidad de representante ante el Servicio Ejecutivo del sujeto obligado citado en "datos del sujeto obligado" autoriza a la persona cuyos datos se detallan en "datos de la persona autorizada", a firmar en su nombre cualquier escrito o comunicación al Servicio Ejecutivo que deba dirigirse en su condición de representante.

Datos del sujeto obligado

| | |
|---|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre / Razón social | |
| Apellido 1 ² | Apellido 2 ² |
| Tipo de sujeto obligado ³ | |

Datos del representante

| | |
|--|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre | |
| Apellido 1 | Apellido 2 |
| Cargo de administración o dirección que ejerce | |

Datos de la persona autorizada

| | |
|---|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre | |
| Apellido 1 | Apellido 2 |
| Domicilio ⁴ | |
| País | Provincia |
| Municipio | Código postal |
| Teléfono | Fax |
| Correo electrónico | |
| Cargo | |

En _____, a _____ de _____ de 20____

Firma del representante:

Firma de la persona autorizada:

¹ CIF, DNI/NIF, Pasaporte, NIE, etc.

² A cumplimentar exclusivamente si el sujeto obligado es una persona física.

³ Deberá seleccionarse entre los tipos recogidos en el artículo 2.1 de la Ley 10/2010.

⁴ Domicilio del centro de trabajo de la persona autorizada.

Calle Alcalá, 48 28014 Madrid Teléfono + 34 91 338 88 08 www.sepblac.es

SEPBLAC

Por cada persona que se autorice o apodere y por cada sujeto obligado, pudiendo autorizarse hasta un máximo de dos personas por entidad, deberá enviarse la siguiente documentación:

1. Formulario F22-6 debidamente cumplimentado y firmado tanto por el representante como por la persona autorizada.
2. Documento que acredite suficientemente la firma de la persona autorizada (por ejemplo, copia del Documento Nacional de Identidad).

Toda la documentación se enviará en soporte papel a la dirección:

Sepblac
C/ Alcalá, 48
28014 Madrid

La presente autorización se extiende exclusivamente al alcance señalado en el primer párrafo de la página anterior y tiene duración indefinida. Su revocación o extinción por cualquier causa se comunicarán inmediatamente al Servicio Ejecutivo mediante escrito en soporte papel firmado por el representante, surtiendo efectos desde la recepción de la comunicación por dicho Organismo.

ANNEX 4. SOME RELEVANT FORMS REQUIRED BY SPANISH ANTI- MONEY...

SEPBLAC
Servicio Ejecutivo de la Comisión de
Prevenición del Blanqueo de Capitales
e Infracciones Monetarias

COMUNICACIÓN DE ACTUACIÓN COMO EXPERTO EXTERNO (F22-7)

Datos de la persona física que pretende actuar como experto externo

| | |
|---|--------------------------------|
| Tipo de documento identificativo ¹ | Nº de documento identificativo |
| Nombre ² | |
| Apellido 1 | Apellido 2 |
| Domicilio ³ | |
| País | Provincia |
| Municipio | Código postal |
| Teléfono | Fax |
| Correo electrónico | |

Datos de la persona jurídica en el marco de la cual actúa el experto externo (si procede)

| | |
|---|--------------------------------|
| Tipo de documento identificativo ⁴ | Nº de documento identificativo |
| Razón social | |

Firma⁵

Según lo dispuesto en el artículo 28.2 de la Ley 10/2010, quienes pretendan actuar como expertos externos deberán comunicarlo al Servicio Ejecutivo de la Comisión antes de iniciar su actividad. Para ello, cada experto externo deberá enviar al Servicio Ejecutivo un formulario F22-7 cumplimentado en soporte papel. La dirección de envío es la siguiente:

Sepblac
Calle Alcalá, 48
28014 Madrid

Asimismo, el mencionado artículo establece que quienes pretendan actuar como expertos externos informarán semestralmente al Servicio Ejecutivo de la relación de sujetos obligados cuyas medidas de control interno hayan examinado. En el sitio web del Sepblac (<http://www.sepblac.es> >> Sujetos obligados y expertos externos >> Expertos externos) encontrará descrito el procedimiento para el envío semestral de esta información.

¹ DNI/NIF, Pasaporte, NIE, etc.

² En este campo no se incluirán los apellidos.

³ Domicilio del centro de trabajo del experto externo.

⁴ CIF, etc.

⁵ Firma del experto externo cuyos datos se comunican.

Calle Alcalá, 48 28014 Madrid Teléfono + 34 91 338 88 08 www.sepblac.es

COMUNICACIÓN DE OPERATIVA SOSPECHOSA POR INDICIO (F19-1)
(Artículo 18 de la Ley 10/2010)

| | |
|--|--|
| Sujeto obligado | |
| Número de documento identificativo del sujeto obligado | |
| Nombre del representante | |
| Referencia de la comunicación | |
| Fecha de la comunicación | |

Identificación de los intervinientes en las operaciones

Conocimiento de los intervinientes en las operaciones

Descripción de las operaciones

Indicios de blanqueo de capitales

Gestiones y comprobaciones realizadas

Documentación remitida (relación de documentos que se adjuntan)

El representante

Portugal

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez

Annex 1

Form INEM C2

Segundo Ruiz Rodríguez

Modelo INEM_C2

Instituto Nacional de Emergência Médica- CONTINENTE
(Art. 25º, nº 1 alínea a) do Decreto-Lei nº 234/81, de 3 de agosto, com a redação introduzida pelo Decreto-Lei 171/87, de 20 de abril)
- Empresas em Regime de Livre Prestação de Serviços -

01 **IDENTIFICAÇÃO DA ENTIDADE**
Código **1** 0682 Nome Companhia de Seguros Y Reaseguros, S.A.
Morada Calle Diego de León, 10 Madrid 28006

02 **IDENTIFICAÇÃO DO RESPONSÁVEL FISCAL**
Nome FIDES Abogados S.L.
Morada Lagasca, 40, Madrid 28001

00 **CÓDIGO DO MODELO**
INEM_C2_4639_2016_11

03 **PERÍODO A QUE DIZ RESPEITO O APURAMENTO**
1 janeiro 2 fevereiro 3 março 4 abril 5 maio 6 junho
7 julho 8 agosto 9 setembro 10 outubro 11 novembro 12 dezembro
Ano **13** 2016

04 **APURAMENTO DE VALORES**
Taxa Considerada **9** 2,500 %
Ramos
Seguro de Vida 115,222.00 € 1.3 2,880.55 €
1 - Acidentes 0.00 € 2.3 0.00 €
2 - Doença 0.00 € 3.3 0.00 €
8 e 9 - Incêndio e Outros Danos 0.00 € 4.3 0.00 €
3 e 10 - Automóvel 0.00 € 5.3 0.00 €
13 - Responsabilidade Civil Geral 0.00 € 6.3 0.00 €
15 e 18 - Diversos 0.00 € 7.3 0.00 €
TOTAL 115,222.00 € 8.3 2,880.55 €
Prêmios Precatados do Ramo (apenas para efeito de controlo)
Prêmios Cobrados Sujeitos à Taxa pelo INEM
Montante a Liquidar

05 **DEPÓSITO NA CONTA E NOS TERMOS INDICADOS PELO INEM**
Valor a Pagar (campos 8.3 do quadro 04) **1** 2,880.55 €

06 **A PRESENTE INFORMAÇÃO CORRESPONDE À VERDADE**
Data 15.12.2016 Responsável Teresa Amaral

Annex 2

Form ASF S2

Segundo Ruiz Rodríguez

LAW FOR INSURERS IN SPAIN AND PORTUGAL

| Modelo ASF_S2 | | 00 | CÓDIGO DO MODELO |
|--|--|---|------------------------------|
| RAMO VIDA e RAMO NÃO VIDA | | ASF_S2_4702_2016_07 | |
| - Empresas em Regime de Livre Prestação de Serviços - | | | |
| 01 IDENTIFICAÇÃO DA ENTIDADE | | | |
| Código Morada | 1 6902 NR 0000000000000 Nome LIFE INSURER avenue John F. Kennedy, L-4444 Luxembourg | | |
| 02 IDENTIFICAÇÃO DO REPRESENTANTE FISCAL | | | |
| Nome Morada | FIDES Abogados S.L. Lagasca, n.º40 - 28001 Madrid | | |
| 03 PERÍODO A QUE RESPEITA A PRODUÇÃO | | | |
| <input type="checkbox"/> 1 1º semestre | | <input checked="" type="checkbox"/> 2 2º semestre | |
| | | Ano 3- 2016 | |
| 04 RAMO VIDA - DIRETIVA 79/267/CEE | | | |
| Taxa | Ramos | Receita Processada (A) | Valor a Pagar (A x campo 9) |
| 9 0,048 % | Seguro de Vida 1.1 | 52,856,079.02 € 4.2 | 25,370.92 € |
| | Nupcialidade e Natalidade 2.1 | € 3.2 | € |
| | Seguros Ligados a Fundos de Investimento 3.1 | € 3.2 | € |
| | Operações de Capitalização 4.1 | € 4.2 | € |
| | Outros 4.1 | € 5.2 | € |
| | Contratos de Investimento (1) (3) 6.1 | € 6.2 | € |
| | Contratos de Prestação de Serviços (2) (3) 7.1 | € 7.2 | € |
| | TOTAL 4.1 | 52,856,079.02 € 4.2 | 25,370.92 € |
| 05 RAMO NÃO VIDA - DIRETIVA 92/49/CEE | | | |
| Taxa | Ramos | Receita Processada (A) | Valor a Pagar (A x campo 11) |
| 11 0,242 % | Acidentes e Doença 6.1 | € 1.2 | € |
| | Incêndio e Outros Danos 2.1 | € 2.2 | € |
| | Automóvel 3.1 | € 3.2 | € |
| | Aéreo Marítimo e Transportes 4.1 | € 1.2 | € |
| | Responsabilidade Civil 5.1 | € 1.2 | € |
| | Crédito e Caução 6.1 | € 6.2 | € |
| | Outros Ramos 7.1 | € 7.2 | € |
| | Contratos de Investimento (1) (3) 3.1 | € 6.2 | € |
| | Contratos de Prestação de Serviços (2) (3) 9.1 | € 9.2 | € |
| | TOTAL 10.1 | 0.00 € 10.2 | 0.00 € |
| <small>(1) Componente de depósitos de contratos de seguros e contratos de seguros e operações considerados para efeitos contabilísticos como contratos de investimento (2) Contratos de seguro e operações considerados para efeitos contabilísticos como contratos de prestação de serviços (3) Para efeitos de receita processada considerar as entregas (i.e. "prémio") efetuadas pelos Tomadores de seguro incluindo comissões cobradas conjuntamente</small> | | | |
| 06 INFORMAÇÃO DUC | | | |
| Situação | 1 Emitido | Referência p/ pagamento | 4 211 987 007 341 000 |
| Data Emissão | 2 27-01-2017 | Valor A Pagar | 5 25,370.92 € |
| Data Pagamento | 3 | Valor Pago | 6 € |
| <small>Disponível para pagamento no segundo dia útil após emissão do "DUC". O pagamento pode ser efetuado através das Caixas Automáticas Multibanco e das Instituições de Crédito aderentes à Rede de Cobranças do Estado, aos respetivos balcões e homebanking (via Internet), utilizando a referência para pagamento indicada e selecionando "Pagamentos ao Estado". Mas se informa que caso o beneficiário não seja o titular do contrato de seguro, o pagamento não será efetuado.</small> | | | |
| 07 A PRESENTE INFORMAÇÃO CORRESPONDE À VERDADE | | | |
| <small>Autoridade de Supervisão de Seguros e Fundos de Pensões Av. da República, 75 - 1600-205 LISBOA - http://www.asf.com.pt - asf@asf.com.pt - Linha Informativa: 808 787 787 - P. Coletiva: 501 328 599</small> | | | |

Annex 3

Form IS (Imposto de Selo)

Segundo Ruiz Rodríguez

| | | | |
|---|--|--|--|
|  MINISTÉRIO DAS FINANÇAS AUTORIDADE TRIBUTÁRIA E ADUANEIRA | | DECLARAÇÃO DE RETENÇÕES NA FONTE IRS/IRC E IMPOSTO DO SELO | |
| NÚMERO DO DOCUMENTO | | NÚMERO DE IDENTIFICAÇÃO FISCAL | |
| 80471081558 | | 80203777 | |
| RETENÇÕES A NÃO RESIDENTES | | NOME | |
| Retenções feitas a sujeitos passivos considerados não residentes em Portugal, de acordo com o previsto no n.º 7 do art. 119.º do CIRS. | | FIDES Abogados, S.L. | |
| SIM <input checked="" type="checkbox"/> | | | |

| | ZONA | CÓDIGO | IMPORTÂNCIA € |
|----|------------|--------------------|---------------|
| 1 | Continente | 322 - IS - Seguros | 50.180,26 |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |

| | | | |
|---------|-----------------|---------------|-----------|
| PERÍODO | 2016 / setembro | VALOR A PAGAR | 50.180,26 |
|---------|-----------------|---------------|-----------|

Total de páginas: 1 Número desta página: 1 Data e hora da recepção da declaração: 2016-10-19 13:32:33

| | |
|---------------------------|--|
| Referência para pagamento | O pagamento pode ser efectuado através do Multibanco, da Internet, das Tesourarias de Finanças, dos CTT e das Instituições de Crédito, utilizando a referência indicada. Para efectuar o pagamento pela Internet utilize o serviço on-line do seu Banco e seleccione Pagamentos ao Estado. Válido como recibo após certificação ou juntamente com o documento emitido pela entidade cobradora. |
| 156.480.471.081.558 | |
| Importância a pagar | |
| € 50.180,26 | |
| Data limite de pagamento | |
| 2016-10-20 | |



56102100066980471081558078100000501802643

| | |
|---------------------------|----------------------------|
| Certificação do pagamento | Assinatura |
| | <hr style="width: 100%;"/> |

Information Pertaining to Legse-Fides Abogados

LEGSE Abogados (founded in 1994) is a law firm renowned for its expertise which focuses on providing legal services to international companies. The main areas of practice at this firm are Insurance and Banking, Corporate and Commercial, Labour Law, White Collar Crime, Prevention of Money Laundering and Litigation.

In 2004, LEGSE Abogados created FIDES Abogados, (of which LEGSE owns 95%), to manage tax representation of insurance companies in FoS. The firm is the Tax Representative of 38 European Insurance Companies operating in FoS in Spain and Portugal providing its clients with updates on tax compliance requirements, amendments to relevant legislation and also providing tax and legal information when required. Another important specialty of the firm in this area is to review the new product literature (insurances policies wording) to ensure it complies with Spanish law and regulations. It is remarkable that the joint invoicing of both firms in subjects related to Insurance Law places LEGSE-FIDES at one of the first positions in this sector on the Spanish legal services market. For example, in 2016 they managed 192 new legal proceedings related to Life Insurance.

The firm is still medium sized, which means it can guarantee a close working relationship between the client and the Head Manager of each legal area, as well as adding a personal touch to each lawyers' work. Furthermore, it is a firm that enjoys full independence from any other organization.

This firm, since its foundation, has put great importance on training, both that received by lawyers at the Firm, as well as through courses in which its lawyers participate as lecturers. In relation to the latter, and on the subject of Insurance Law, they have participated for 25 years in various courses organized by ICEA (*Investigación Cooperativa de Entidades Aseguradoras*) and in the *Centro de Estudios Financieros (CEF)*. In addition to the Insurance Law area, they have collaborated with different institutions on courses of other areas of Law: Master of Law, founded by the University of Rey Juan Carlos and by LEGSE Abogados; Business Law with the *Universidad Pontificia de Comillas, of Madrid (ICADE)* and with the *Centro de Estudios Financieros (CEF)*; Tax Law with the *Cámara Oficial de Comercio e Industria of Madrid*.

They are aware that in an increasingly globalized world, a law firm should offer an international service. For increasing their international capacity, this firm is a member of the prestigious international network of independent law firms INTERLEGES, which is represented in twenty countries. Obviously, the standards to become a member of this network are very high. The firm believes that belonging to this network benefits their clients in different ways:

- INTERLEGES is an international source of information, ideas and organizational systems, which allows them

to improve on the quality of the legal services provided to their clients.

– Its clients with presence on the international market can benefit from the defence of their interests with representatives of INTERLEGES available to them in the principal countries around the world (from an economical point of view).

Segundo Ruiz Rodríguez

Segundo Ruiz Rodríguez