

Insurance & Reinsurance Law & Regulation

Jurisdictional comparisons

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1. WHAT RISKS MUST BE INSURED?

1.1 What are the compulsory classes of insurance?

Greek legislation provides that compulsory classes of insurance are determined by law (Article 26 of Law (L) 2496/1997). Some examples are:

- compulsory class of motor civil insurance liability (Article 2(1) of L 489/1976), as codified by Presidential Decree (PD) 237/1986;
- civil liability for sea pollution from ship hydrocarbons (Article VII of L 314/1976);
- environmental damage insurance (Article 14 of PD 148/2009);
- compulsory civil insurance liability of shipowners (Article 25 (2a) of L 3450/2006);
- compulsory civil insurance liability of air-carriers (Article 50 of L 3006/2002);
- package holidays and package tours (Articles 5 and 7 of PD 339/1996);
- civil liability insurance of insurance brokers (Article 4 (1) (A) (στ) of PD 190/2006);
- civil liability of gas distribution companies (Article 4 (5) (θ) of L 2364/1995);
- tourist vessels insurance (Article 14 (4) of L 4256/2014);
- establishment of lawyers who obtained their licence in another EU member state (Article 8(3) of PD 152/2000);
- nuclear power insurance (L 336/1969);
- civil liability of researchers and sponsors of clinical trials of pharmaceutical products for human beings (Ministerial Decree (MD) 3/89292/2003); and
- civil liability insurance of researchers and public work contractors (L 1418/1984).

Insurance risks that are not compulsory by law may be freely underwritten and agreed between the insured and the insurer.

1.2 Who must they be insured with?

1.2.1 Locally admitted insurers

In general, insurance activities in Greece can be carried out by Greek or overseas insurance companies. Insurance cooperatives also exist and operate for the specific purpose of the insurance for which they were established,

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and fulfil the requirements specifically provided by law. Insurance activities by non-Greek companies are carried out under the freedom of establishment (FOE) or freedom of services (FOS) rules in accordance with EU legislation and as implemented into national legislation (Article 1(1) of Legislative Decree (LD) 400/1970). In order to carry on any insurance activity, the company must be granted an insurance licence by the Department of Private Insurance Supervision (DOPIS) of the Bank of Greece (BoG).

1.2.2 Foreign insurers

Insurance activities can be carried out by foreign insurance companies licensed by the DOPIS, as detailed above. More particularly, such activities may be exercised by:

- any insurance company with registered offices in a member state of the European Union (EU) and the European Economic Area (EEA), as well as an agency or branch of such company in another member state operating under the status of either FOE or FOS (Article 2(2) of LD 400/1970);
- any insurance company with registered offices in a third country (ie non-EU or EEA states) and operating in Greece under the FOE status (Article 2(2) of L 400/1970);
- Lloyd's of London (Article 2(2) of L 400/1970); or
- a European company or *Societas Europaea*, in accordance with Regulation (EC) 2157/2001, as adopted into Greek legislation by L 3412/2005.

2. WHO CAN INSURE NON-COMPULSORY CLASSES OF RISK?

2.1 Locally admitted insurers

Non-compulsory risks may be insured in Greece by the same licensed or authorised entities as described in section 1.2.1 above.

2.2 Foreign insurers

The same entities as detailed above may insure non-compulsory classes (section 1.2.2).

2.3 Excess and surplus lines markets

There is no excess and surplus lines activity in Greece.

3. WHICH REINSURERS CAN BE USED?

3.1 Must they be locally admitted?

Reinsurance activity is permitted on an FOE basis provided that such reinsurers are licensed and supervised by their own home regulator within the EU. If not, Article 83 of LD 400/1970 provides that such licence must be granted by the DOPIS of the BoG, provided that the reinsurer has its registered office and central management in Greece. Such licence may specify the risks that the reinsurer is permitted to underwrite. The provisions of Chapter 12 (Articles 79–110) of LD 400/1970 bring into force

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4.1 What tax

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EU Directive 2005/68/EC and harmonise the regulation of reinsurance activity in Greece.

The initial minimum capital requirement is EUR 3 million or such higher amount equal to one-third of the required solvency margin as determined in accordance with the provisions of Article 98 of LD 400/1970.

Reinsurance in Greece is carried out by:

- reinsurance companies licensed in accordance with Greek law and following a decision of the BoG;
- insurance companies licensed in accordance with Greek law, by a decision of the BoG, but only for the insurance class or classes for which they have already been licensed as a direct insurer;
- insurance and reinsurance companies licensed in any other state member of EU, regulated (supervised) by the respective regulatory authority of that state member; and
- reinsurance companies outside the EU and EEA areas, but only if they have established a branch in Greece and are supervised as such by the DOPIS of the BoG.

3.2 If not, are security requirements imposed?

In accordance with the provisions of Article 93 of LD 400/1970, reinsurance companies licensed and operating in Greece must maintain on a continuous basis sufficient technical reserves in accordance with the provisions of Article 7 of the same law. The requirements are the same whether the reinsurer is licensed in Greece or operates on an FOE basis. There do not appear to be additional security or capital requirements beyond the minimum capital requirement of EUR 3 million.

4. THE TAXATION OF INSURANCE

4.1 What taxes are levied on insurance premium?

Insurance premium tax is determined by law and varies depending on the type of the insurance class and the duration of the insurance policy. Insurance premium tax by insurance class is shown in the table below:

Insurance premium tax

Insurance class	Taxation on insurance premium (per cent)
Life	
– Contracts < 10 years	4
– Contracts > 10 years	Exempted
General civil liability	10
Cars	
– All risks except fire	10
– Fire	20
– Civil liability	10
Fire	20
– Tobacco cultivation	15
Health	10
Accidents	10
Ships/Aircrafts	Exempted
Cargos transported	
– in Greece	10
– internationally	Exempted
Reinsurance	Exempted
Others	10

Source: Hellenic Association of Insurance Companies (www.eaee.gr).

4.2 What exceptions are there?

Certain insurance classes are exempted by law. See the table in section 4.1 above.

5. INSURANCE REINSURANCE AND CAPITAL MARKETS**5.1 How is finite reinsurance treated?**

Chapter 12, title VI of LD 400/1970 addresses matters of finite reinsurance and the legal framework of this under Greek law is, in general, as in the EU. However, we are not aware of any finite reinsurance arrangements in the Greek market, perhaps as one would expect in a relatively traditional and still developing market.

5.1.1 What constitutes risk transfer?

N/A.

5.2 Derivatives, ILWs and wagering agreements**5.2.1 What constitutes insurable interest?**

N/A.

5.3 Side Car**5.3.1 To what contracts?**

N/A.

5.4 Other IL

In relation to found any evidence most probably

6. COMM**6.1 What disclosure of**

Insurance broker insurance company and agreed between class, type of insurance requested by the commissions for There are no disclosure law or by the European the broker to disclose then the latter the BoG has in relevant broker either in general outset and decision

Commission re

Insurance class
Motor
Fire
Life

7. HOW ARE AGENTS AND REGULATED

The DOPIS of the Greece, including 2002/95/EC was to the extent of insurance interest Governor, issued providing guidance of all parties in

5.3 Side Cars and CAT Bonds

5.3.1 To what extent are these governed by the law relating to insurance contracts?

N/A.

5.4 Other ILS and ART products

In relation to the insurance solutions provided under section 5, we have not found any evidence of Greek companies offering any of these instruments, most probably because of their size and capital.

6. COMMISSIONS

6.1 What commissions and brokerages are permissible? What disclosure of commissions is required?

Insurance brokers may enter into exclusive or other agreements with insurance companies. Brokerage commissions are subject to market rules and agreed between the parties, and rates vary depending on the insurance class, type of insurance contract, broker's profile and nature of the product requested by the customer. The table below provides the usual range of commissions for insurance brokers for the main types of insurance contracts. There are no disclosure requirements of brokers' commissions imposed by law or by the BoG. However, market practice dictates that if the client asks the broker to disclose the applicable commission to the business in question, then the latter is obliged to make full and frank disclosure. More recently, the BoG has imposed an obligation that there be an agreement between the relevant broker and the insurance company on the level of commissions either in general or on a case-by-case basis, but in any event agreed at the outset and declared.

Commission ranges

Insurance class	Commission (per cent)
Motor	7-13
Fire	14-25
Life	20-25

7. HOW ARE AGENTS (BROKERS AND UNDERWRITING AGENTS AND THIRD PARTY CLAIMS ADMINISTRATORS) REGULATED?

The DOPIS of the BoG is the regulator of the entire insurance sector in Greece, including insurance brokers and all insurance activities. EU Directive 2002/95/EC was implemented into Greek law by PD 190/2006 and amended, to the extent necessary, L 1569/1985, which has hitherto governed all insurance intermediary activity. The BoG, by an administrative act of the Governor, issues, from time to time, a code of conduct for the purposes of providing guidance and standards for the proper behaviour and co-operation of all parties involved in private insurance.

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8. IS TAKAFUL POSSIBLE?

There is no takaful activity in Greece.

9. WHAT SCOPE IS THERE FOR MICROINSURANCE?

We are not aware of any microinsurance activity in Greece. In light of the extreme financial crisis, there would appear to be scope for the development of this mechanism to protect lower income people who tend to be underserved by mainstream commercial and social insurance schemes. The percentage of the population that cannot afford such insurance products has grown in the last few years. Providing suitable insurance products for lower income sections of the general population could be achieved through the co-operation of mainstream insurance market and the community, as well as through non-government organisations and, perhaps, the government. It is difficult to know whether or not the insurance needs of the Greek public would be of such type and value to be properly served by microinsurance, as effected in less developed economies and markets.

10. EXIT SOLUTIONS – WHAT SOLUTIONS ARE AVAILABLE AND HOW DO THEY OPERATE? HOW ARE FOREIGN SOLUTIONS RECOGNISED?

10.1 Portfolio transfer

Portfolio transfers, or loss portfolio transfers, are an accepted exit tool in the Greek insurance market, albeit not yet widely used.

10.2 Statutory portfolio transfer

Article 59 of LD 400/1970 implements Directive 92/49/EC (Article 12 and 53), enabling statutory portfolio transfers to operate in Greece in the same way as in the rest of the EU. Any insurance company registered and licensed to operate in Greece may, following a decision of the BoG approving such transfer, transfer all or part of its insurance portfolio, whether this was underwritten on a FOS or FOE status, to any other insurance company established in the EU or EEA. There appears to be a discrepancy in Greek law in that it appears to require that the transferee actually be 'established' in Greece (Article 2 of LD 400/1970). Such transfer is approved provided that it does not prejudice the interests of policyholders or any interested parties who stand to benefit from such contracts, and provided that the insurer who is assuming the portfolio has the necessary solvency margin following the transfer.

The proposed transfer must be published in the Government Gazette as well as in a national daily and a daily or weekly financial newspaper in the state of the head office of the transferor, and must set a period of three months within which objections may be presented by any interested party. Following the publication of the approval of the transfer granted by the BoG, no objection can be raised against this decision. Article 59(3) requires that the undertaking to which the transfer is intended be established in Greece in accordance with Article 2(a) of LD 400/1970, which requires that the transferee has its head office, agency or branch in Greece or at least has

appointed a person to manage any assets.

10.3 Novation

Novation is allowed. The contract is replaced by a new one which assumes the rights and obligations of the original contract.

10.4 Commutation

Commutation is possible in the usual way.

10.5 Policy buy-back

The nature of policy buy-back is not clear.

10.6 Solvent transfer

There is no equivalent in Greek law.

10.7 Assignment

The rights under a policy can be transferred by assignment in accordance with the provisions of the Insurance Code *seq.*

Where insurance is assigned:

- the insurer must be notified of the assignment by the assignor's insurer;
- the assignor must be notified of the assignment by the assignee;
- the assignor must be notified of the assignment by the assignee;
- the consent of the assignor must be effective. However, notification of the insurer from the assignor is not required.

appointed a permanent representative with the authority to handle and manage any aspect of the portfolio.

10.3 Novation

Novation is allowed under Greek law and is concluded in the usual way. The contracting parties as well as the third party (transferee) must agree to replace the original contract with a new one, under which the third party assumes the rights and obligations under the original contract.

10.4 Commutation

Commutations are freely entered into between contracting parties in the usual way.

10.5 Policy buy-back

The nature of insurance arrangements in Greece does not offer itself for policy buy-backs.

10.6 Solvent Scheme

There is no equivalent legal framework in Greece.

10.7 Assignment

The rights under an insurance contract, whether present or future, may be transferred by assignment to a third party, subject to the relevant common provisions of the Greek Civil Code and more particularly to Article 455 *et seq.*

Where insurance contract rights are assigned:

- the insurance relationship is not transferred by the assignment; rather the assignor remains the insured party under the policy, and it is the assignor's interest in the insured subject matter which remains insured;
- the assignment of insurance contract rights can only be effected once the assignee has been notified;
- liabilities or obligations under the insurance policy do not follow the assignment and remain with the assignor; and
- the consent of the insurer is not required of an assignment to be effective. However, any payment completed by the insurer prior to notification of the assignee is considered valid and hence exempts the insurer from the same obligation towards the assignee.