

INFORMATION ABOUT MANDATORY PROVISIONS IN AUSTRIAN LAW

(Version April 2023)

This document includes national legislation for the protection of the general good, to which the performance of insurance and reinsurance distribution by insurance and reinsurance undertakings in Austria are subject, including the information, to what extent Austria has decided to apply stricter rules than in Chapter V as well as pursuant to Article 29 (3) of Directive (EU) 2016/97. Because of the legal transparency obligation according to Article 256 para. 2 VAG 2016, these provisions are highlighted with a grey background and are printed entirely or are explained.

In addition, this document includes those mandatory provisions for the protection of the general good, which are applicable for the contractual insurance activity in Austria, including those provisions, going not beyond the harmonising provisions of the IDD and the Solvency II-Directive, but which have to be complied with by insurance undertakings which are operating in Austria under the freedom to provide services or the freedom of establishment. In this respect, it has to be clarified that this list of mandatory applicable provisions under Austrian law makes no claim to completeness.

This document is updated in regular intervals. The currently valid version of the regulations cited below can be found at: <https://www.ris.bka.gv.at/Bundesrecht/>.

1. Freedom of Choice of Law

Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) shall apply to insurance contracts concluded on or after 17 December 2009:

- Parties may choose the applicable law for insurance contracts covering a large risk (Article 7 (2) of the Regulation), regardless of whether the risk covered is situated in a Member State. Where no applicable law has been chosen, then the insurance contract shall be governed by the law of the country where the insurer is domiciled.
- For insurance contracts not covering large risks and where the risk covered is situated in a Member State, Article 7 (3) of the Regulation provides for various laws to be chosen by the parties such as the law of the country where the policyholder has their habitual residence (life insurance), the law of the Member State where the risk is situated at the time of conclusion of the contract etc. Article 35a of the Act on International Private Law (IPRG; Internationales Privatrechtsgesetz) extends this choice of law in certain cases. Where no applicable law has been chosen, the contract shall be governed by the law of the Member State in which the risk is situated at the time of conclusion of the contract.
- In the case of insurance contracts, the risks of which are not situated in a Member State (except for large risks), the freedom of choice of law exists pursuant to Article 3 of the Regulation. However, in the interests of consumer protection, certain restrictions do apply (Article 6 of the Regulation).
- *Article 13a of the Consumer Protection Act (KSchG; Konsumentenschutzgesetz) applies for consumer contracts.*

2. Place of jurisdiction

The place of jurisdiction referred to in Article 99 para. 3 of the Code of Judicial Jurisdiction (JN; Jurisdiktionsnorm) under which foreign companies may be sued in the domestic court, in which district its permanent representative in Austria is located or a body that is entrusted with the provision of such services of such companies, shall not be allowed to be excluded for lawsuits brought in relation to its business operations in Austria.

(Article 17 para. 4 Insurance Supervision Act 2016 (VAG 2016; Versicherungsaufsichtsgesetz 2016)

3. Use of mediation services

Insurance and reinsurance undertakings shall be allowed for providing insurance and reinsurance distribution activities by third parties to generally only make use of registered insurance and reinsurance intermediaries or registered ancillary insurance intermediaries pursuant to Article 3 of Directive (EU) 2016/97 or authorised undertakings for this purpose pursuant to Article 1 para. 1 nos. 1 to 5 VAG 2016.

Undertakings pursuant to Article 1 para. 1 nos. 1 to 5 VAG 2016 that perform distribution activities via an ancillary insurance intermediary pursuant to Article 1 (3) of Directive (EU) 2016/97, shall be required to fulfil the conditions listed in Article 127d para. 2 VAG 2016.

(Article 127d VAG 2016)

4. Types of Communication

Article 128a VAG 2016 defines in which form information is to be provided to the insurance policyholder.

Article 128a. (1) Insurance undertakings shall communicate the information to be provided to policyholders in accordance with this Chapter:

1. on paper,
2. is a clear and accurate manner that is comprehensible to the policyholder,
3. in German, unless the policyholder has specifically agreed to the use of another language, and
4. free of charge.

(2) Insurance undertakings may, unless determined otherwise within this federal act, and in the case of information following the conclusion of the contract provided that the standards of Article 5a para. 1 VersVG are complied with, may by way of derogation from para. 1 no. 1 communicate information by one of the following media:

1. on another durable medium other than paper, when
 - a) the usage of the durable medium is appropriate in the context of the business conducted between the insurance undertaking and the policyholder, and
 - b) the policyholder had the choice between receiving information on paper or on another durable medium, and chose to receive it on the other durable medium.
2. a Website, where
 - a) the access is personalised for the policyholder, or
 - b) the following conditions are met:
 - aa) the issuing of information via a website is appropriate in the context of the business conducted between the insurance distributor and the policyholder;
 - bb) the policyholder has agreed to receive such information via a website;
 - cc) the address of the website and the location on the website where the information may be accessed, has been electronically communicated to the policyholder;
 - dd) it is guaranteed that such information shall remain available on the website for as long as they must reasonably be consulted by the policyholder.

(3) The provision of information on another durable medium other than paper or via a website in the context of business conducted between the insurance undertaking and the policyholder shall be appropriate, if the policyholder demonstrably has regular Internet access. The communication of an e-mail address by the policyholder for the purposes of such business shall be deemed to be such proof.

(4) If the information is made available on a durable medium other than paper or via a website, then the insurance undertaking shall make a paper version of the information available free of charge to the policyholder at the policyholder's request.

(5) In the case of telephone selling, the information that is required to be issued prior to the conclusion of the contract, including the insurance product information document, shall pursuant to the Union rules on the distance marketing of consumer financial services. In addition the information is also to be issued immediately following the conclusion of the insurance contract pursuant to para. 1 or 2. This shall also apply if the policyholder has decided to receive the information to be issued prior to the conclusion of the contract pursuant to para. 2 no. 1 on another durable medium than paper.

Article 5a of the Insurance Contract Act (VersVG; Versicherungsvertragsgesetz) defines the conditions for electronic communications.

Article 5a. (1) The agreement of electronic communication requires the express consent of the policyholder, which must be declared separately. It may be revoked at any time by either party. The policyholder must be informed of this right before approval.

(9) When transmitting content relevant to the contract via website, the insurer has to provide permanently on the announced place of the website the insurance conditions during the entire term of the contract and statements and other information during the period in which they are significant. The undertaking also has to enable the policyholder to permanently save and reproduce the insurance conditions.

If a provision of the VersVG stipulates only a declaration in writing, instead of the written form with signature as defined in Article 886 of the General Civil Code (ABGB; Allgemeines Bürgerliches Gesetzbuch) and Article 4 of the Signature and Trust Services Act (SVG; Signatur- und Vertrauensdienstegesetz), then no signature or qualified electronic signature is necessary, provided that the text is typed and the person making the declaration is named.

Where the insurer invokes the ineffectiveness of such a declaration that is not given in written form, then it shall communicate this fact to the person making the declaration without delay following receipt of the declaration. The recipient shall be able to therefore rectify this in a timely manner within 14 days by sending a written declaration.

(Article 1b VersVG)

5. Information requirements and conduct of business rules for insurance distribution

Generally the following information requirements and conduct rules shall apply for insurance distribution:

- Article 91 VAG 2016 defines the minimum content of the insurance contract.
- Article 128 VAG 2016 contains general principles that are to be observed by insurance undertakings in their insurance distribution business. Insurance undertakings shall always act in conducting their insurance activity honestly, fairly and professionally towards their policyholders and persons entitled to a claim and in their best possible interest.

Article 128. (1) Insurance undertakings shall always act in conducting their insurance distribution activity honestly, fairly and professionally towards their policyholders and persons entitled to a claim and in their best possible interest.

(2) All information including marketing communications that the insurance undertakings address to policyholders or disseminate so that such persons are likely to become aware of them, must be clear, and shall not be misleading and must be fair. Marketing communications shall be required to be clearly identifiable as such and shall not be allowed to be in contradiction to the information disclosed pursuant to Regulation (EU) 2019/2088. Furthermore, such information shall not be allowed to use the name of any competent authority in any way that indicates or suggests that the insurance undertaking's products or services have been approved by the competent authority.

(3) Insurance undertakings shall not be allowed to remunerate or reward the performance of their employees or insurance distributors in such a way, or themselves to be remunerated in any way that conflicts with their duty to act in the best possible interests of policyholders and persons entitled to a claim. In particular insurance undertakings shall not be allowed to make any arrangement by way of remuneration for distribution, sales targets or otherwise, that could provide an incentive for the insurance undertaking itself, its employees or insurance distributors, to recommend or offer a specific insurance product to a policyholder, although they could recommend or offer another insurance product that corresponds better to the needs of the policyholder.

(4) The FMA may with the consent of the Federal Minister of Finance defined by means of a regulation:

1. which business practices shall be deemed to be dishonest or which information shall be deemed to be unclear or missing leading within the meaning of para. 2 and

2. which distribution remuneration and valuation practices are impermissible due to their colliding within the meaning of para. 3 with the duty to act in the best possible interest of the policyholders and persons entitled to a claim.

(5) The permissibility of sending unsolicited messages to advertise to conclude an insurance contract shall be based on Article 107 of the Telecommunications Act of 2003 (TKG 2003; Telekommunikationsgesetz 2003).

- Article 129 VAG 2016 contains provisions about product governance.
- Article 130 VAG 2016 defines which information is to be provided to the insurance policyholder prior to the conclusion of a direct insurance contract covering risks situated in Austria and which ongoing information requirements apply to the insurer. In addition the product information requirements pursuant to Article 133 VAG 2016 are also to be observed.

Article 130 VAG 2016 introduces a higher standard than the IDD, because the name, the address and the legal form of the insurance undertaking and, where appropriate, of the branch concluding the insurance contract has to be announced irrespective of whether it is a distribution in relation to the insurance of large risks.

In the following Article 133 VAG 2016 certain provisions are highlighted with a grey background because they are applicable in relation to all insurance contracts and not only in relation to non-life insurance products as referred to in the IDD.

Article 133. (1) Prior to submitting their contract declaration for concluding a direct insurance contract covering risks situated in Austria the policyholder shall be provided – regardless of whether advice has been given and whether the insurance product is part of a package pursuant to Article 134 – the objective information in a comprehensible form about every insurance product and the relevant information about every insurance contract offered to the policyholder that the policyholder requires to be able to take a decision on an informed basis. In so doing the complexity of the insurance product and the defined category of customer shall be taken into account for the target market pursuant to Article 129 para. 2.

(2) The information pursuant to para. 1 shall in particular be required to contain the following details, except for the insurance of large risks:

1. the type of insurance;
2. a summary of the insurance coverage including the principal risks insured, the sum insured and where applicable the geographical scope of the coverage and a summary of the risks that are excluded from coverage;
3. the means of payment of premiums and duration of payments;
4. the most important circumstances under which claims are excluded;
5. duties and obligations at the time of concluding the contract and at the start of the contract;
6. duties and obligations during the term of the contract;
7. duties and obligations in the event of the insured event occurring and making a claim;
8. the term of the insurance contract including the start and end date of the contract;
9. details about terminating the contract;
10. the circumstances under which the policyholder may revoke or cancel the conclusion of the insurance contract, as well as the modalities for exercising the right of revocation or cancellation;
11. the law that applies to the insurance contract, in the case that the parties do not have the freedom of choice in this regard, or the fact that the parties may choose the applicable law, and the suggestion of the insurance undertaking in this regard; and
12. the type of remuneration that the employees of the insurance undertaking receive in connection to the distribution of the insurance contract. In the event that payments are made by the policyholder within the scope of the insurance contract following its conclusion, that are neither continuing premium payments or regular payments, the insurance undertaking shall also disclose the type of every such payment and the type of remuneration for distribution, that the employees of the insurance undertaking received in this regard.

(3) When distributing products in the insurance classes pursuant to nos. 1 to 18 of Annex A the information pursuant to para. 1 nos. 1 to 9 shall be made available to the policyholder by means of a standardised insurance product information document on paper or on another durable medium. The insurance product information document is to be designed by the same person that manufactured the product. It shall:

1. be a short and stand-alone document;
2. be presented and laid out in a way that is clear and easy to read, using characters of a readable size;
3. be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white;
4. be accurate and not misleading;
5. contain the title "insurance product information document" at the top of the first page;
6. include a statement that complete pre-contractual and contractual information on the product is provided in other documents.

(4) The policyholder shall be information about changes to the details pursuant to para. 2 nos. 3 and 8 during the term of the insurance contract.

(5) The information requirements pursuant to para. 2 no. 11 shall also exist for insurance for large risks, provided that the policyholder is a natural person.

- Article 130a contains information requirements in relation to the mediation of third party products.
- The wishes and requirements of insurance policyholders are to be identified pursuant to Article 131 VAG 2016.



Article 131. (1) Prior to concluding a direct insurance contract covering risks situated in Austria, the insurance undertaking shall obtain the information it requires from the policyholder to identify their wishes and needs. In so doing the complexity of the insurance product and the defined category of customer shall be taken into account for the target market pursuant to Article 129 para. 2.

(2) Any contract offered by an insurance undertaking must correspond to the needs and wishes of the policyholders.

(3) The obligations pursuant to para. 1 shall not exist if the contract is distributed by an authorised third party, unless the insurance undertaking has reason to assume that the policyholder is not offered contracts that correspond to their wishes and needs.

- **Article 132 VAG 2016** defines the obligations of the insurance with regard to advice.

Article 132. (1) Except in the case of the insurance of large risks, insurance undertakings shall address a personal recommendation to the policyholder prior to the policyholder submitting the contract declaration to conclude a direct insurance contract covering risks situated in Austria, in which it is explained, why the recommended contract best corresponds to the needs and wishes of the policyholder. In so doing the complexity of the insurance product and the defined category of customer shall be taken into account for the target market pursuant to Article 129 para. 2.

(2) The obligations pursuant to para. 1 shall not exist, if the policyholder wishes to conclude a specific contract and following a warning that the insurance undertaking will not assess, whether the envisaged contract corresponds to their needs and wishes, shall state in a separate declaration that it will not make use of advice. The insurance undertaking shall not be allowed to force the policyholder to forego receiving advice.

(3) The obligations pursuant to para. 1 as well as Article 130 para. 1 no. 1 lit. b shall not exist if the contract is distributed by an authorised third party, unless the insurance undertaking has reason to assume that the policyholder is not being provided advice in an orderly manner by the third party.

(4) When concluding contracts in relation to a direct insurance contract covering risks situated in Austria, in the case that the policyholder's habitual residence or establishment is not in Austria, then instead of communicating the information pursuant to Article 130 para. 1 no. 1 lit. b, it shall be communicated whether the insurance undertaking offers advice prior to the conclusion of the contract. The obligations pursuant to para. 1 shall only exist, if the policyholder makes use of advice.

- **Article 134 VAG 2016** contains rules about cross-selling.

The following additional requirements are to be observed when selling life insurance policies:

- **Article 135 VAG 2016** contains rules about handling conflicts of interest and incentives in the distribution of insurance-based investment products.
- **Article 135a VAG 2016** defines requirements for advice for the distribution of insurance-based investment products, although pursuant to Article 135b VAG 2016 it shall be possible under certain conditions the distribution of insurance-based investment products without advice is possible.
- **Article 135c VAG 2016** contains additional requirements for life insurance product information that must be provided to the insurance policyholder prior to the submission of the contractual declaration. **Article 135d VAG 2016** prescribes additional information requirements throughout the term of the insurance contract. Furthermore the **FMA's Life Insurance Information Requirements Regulation 2018 (LV-InfoV 2018; Lebensversicherung Informationspflichtenverordnung)** defined the minimum content of information that insurance undertakings are required to provide to insurance policyholder pursuant to Article 135c paras. 1 to 3 and Article 135d para. 1 VAG 2016. The Regulation is published on the FMA website at: <https://www.fma.gv.at/download.php?d=3731>.

Article 135c. (1) The information to be supplied pursuant to Article 133 para. 1 prior to the submission of the contract declaration by the policyholder shall be required to also contain the following details when concluding a life insurance contract covering risks situated in Austria in addition to the details pursuant to Article 133 para. 2:

1. the benefits paid out by the insurance undertaking, the extent to which they are guaranteed, the legal bases applicable and the options to which the policyholder is entitled with respect to these benefits;

2. the details of any guarantee granted by a third party and, where appropriate, any contingent liability accepted by the insurance undertaking;

3. the principles for calculating the distribution of bonuses;

4. the surrender values and paid-up insurance benefits and the extent to which they are guaranteed;

5. the premiums for the main benefit and supplementary benefits;

6. in the case of endowment life insurance, by using the values in the specimen calculation referred in para. 2,



a) all charges and fees, in particular

aa) those in relation to the distribution of the insurance product including costs of advice,

bb) the charges for the insurance product recommended to the policyholder, as well as

cc) all payments to third parties;

b) the total effective interest rate of premium payments over the entire term of the contract and, where appropriate, any guaranteed effective interest rate; and

c) estimates of the percentage of insurance tax, of the premiums to cover underwriting risks (risk premiums), broken down according to individual risks, of the costs accounted for in the premium and the amounts invested (savings premium) in the expected premium sum over the entire term of the contract, in the form of a table also listing details on the expected costs and fees, which are determined on the basis of the invested assets.

The information about all costs and charges, including costs and charges in connection with the distribution of the insurance product that are not caused by the underlying market risk are to be provided in aggregated form to allow the borrower to understand the overall cost as well as the cumulative effect on return of the investment. Moreover, the policyholder shall also be informed about the modalities of the payment obligations that apply to it. If requested by the policyholder, in addition an itemised breakdown of the costs and charges must be made available to the policyholder for insurance-based investment product. The policyholder shall be informed about this right.

7. in the case of unit-linked life insurance, the investment funds in which equity interests are held and the nature of the underlying assets;

8. in the case of index-linked life insurance, the nature of the investment, the reference value and the underlying factors which are used for the purpose of calculating the insurance benefits;

9. in the case of investment-oriented life insurance, the nature of the investment, the agreed investment strategy and the conditions for changing the investment strategy;

10. the risks underlying the contract which are assumed by the policyholder. The information about insurance-based investment products and proposed investment strategies must also include instructions and warnings about the risks associated with the insurance-based investment products or specific proposed investment strategies;

10a. as applicable the pre-contractual disclosures pursuant to Article 6 (1) and (2), Article 7 (1) and (2), Article 8 (1) to (2a) and Article 9 (1) to (4a) of Regulation (EU) 2019/2088 and Articles 5, 6 and 7 of Regulation (EU) 2020/852;

11. the tax arrangements applicable to the insurance, while clearly pointing out that the respective tax treatment depends on the customer's personal circumstances and may be subject to future changes;

12. any existing guarantee schemes and the means of accessing them;

13. a concrete reference to the report on solvency and financial condition as laid down in Article 241, allowing the policyholder easy access to this information.

In the case of the distribution of insurance-based investment products information must be issued in such a way that allows the policyholder to reasonably be able to understand the nature and risks of the offered insurance-based investment product and to be able investment decisions on an informed basis.

(2) In the case of endowment life insurance the insurance undertaking shall submit a sample calculation to the policyholder, in which the benefits paid out by the insurance undertaking, the surrender values and the paid-up insurance benefits on the basis of the calculation bases for the calculation of premiums and all costs and charges using at least three different interest rates and compared against the premium, the premium sum and, where applicable, any guaranteed value broken down into annual steps. The specimen calculations shall be explained in a clear and comprehensible manner. The policyholder shall be informed that the specimen calculation is only a model of computation based on notional assumptions, and that the policyholder shall not be able to derive any contractual claims against the insurance undertaking from the specimen calculation.

(3) When distributing life insurance contracts pursuant to Article 5 no. 63 lit. b the information pursuant to Article 133 para. 2 nos. 1 to 9 shall be made available to the policyholder by means of a standardised life insurance product information document on paper or on another durable medium. Article 133 para. 3 second and third sentence shall apply.

(4) The FMA may with the consent of the Federal Minister of Finance defined by means of a Regulation:

1. to more specifically define the information requirements listed in paras. 1 and 2; and

2. to prescribe a standardised format for the presentation of the information document pursuant to para. 3 for life insurance products,

provided that doing so is necessary in the interest of the policyholder, a greater level of comparability and transparency.

The following additional requirements must be observed for the distribution of health and accident insurance similar to life insurance:

- Article 135e VAG 2016 contains product information requirements and continuing information for the distribution of health and accident insurance similar to life insurance. Furthermore the FMA's Information Requirements Regulation for Health Insurance (KV-InfoV; Krankenversicherung Informationspflichtenverordnung) contains selected minimum standards regarding the information

that insurance undertakings pursuant to Article 135e paras. 1 and 2 VAG 2016 are required to provide to insurance policyholders. The Regulation is published on the FMA website at: <https://www.fma.gv.at/download.php?d=2900>.

- For health insurance similar to life insurance the provisions of Article 101 are also to be observed.

Specific provisions for occupational group insurance:

- Articles 94 and 98 contain notification and information requirements.
- In addition Articles 93, 95 and 96 VAG 2016 are also to be observed.

6. Contract Documents

The insurer is obliged to submit a signed (reproduction of personal signature suffices) certificate of the insurance contract (insurance policy) to the policyholder on paper or electronically, where electronic communication has been agreed to (and additionally on paper, if necessary, in the case of life, occupational disability or pension insurance). Insurance policies issued to the bearer may only be submitted on paper. When handing over the insurance policy to the policyholder, the insurer must point out that the policyholder may request copies of the declarations they made with regard to the contract at any time.
(Article 3 VersVG)

7. Inadmissible parts of the contract

If the insurance policyholder is a consumer, then the special protection conditions set out in *Article 6 of the Consumer Protection Act* apply, especially protection conditions in relation to the content of the contract. Apart from the general rule that a provision of the contract contained in the General Terms and Conditions or in contract forms remains invalid if it has been phrased in an ambiguous or incomprehensible manner, the Act stipulates specific provisions that are not binding for the consumer. These concern provisions that take advantage of the naturally weaker position of the consumer and favour the entrepreneur.

A few provisions of Article 6 KSchG are mentioned below by way of example:

- Inappropriately long commitment periods for the consumer are invalid.
- Premium adjustment clauses must, if the agreed conditions for a premium adjustment are met, also provide for a premium reduction and specifically stipulate the circumstances relevant to the premium adjustment. The relevant circumstances must be objectively justified and be outside the entrepreneur's sphere of influence.
- The contract must not impose on the consumer a burden of proof that is not already stipulated in legal provisions.
- Likewise, it is not possible to exclude or limit the right to assert an error on the part of the consumer, or the absence of the inherent basis of a contract or the frustration of contract in advance.

8. Deviation of the insurance policy from the application

If the contents of the insurance policy deviate from the application or the agreements made, the insurer must expressly draw the policyholder's attention to the individual deviations and point out to them that these deviations will be regarded as approved unless they object in writing within one month after receipt of the insurance policy. If the insurer fails to do so, the deviations will be invalid and the provisions contained in the application apply.

(Article 5 VersVG)

9. Duration of insurance contracts

An agreement according to which an insurance relationship will be considered as tacitly extended unless it is cancelled before expiry of the contract period is admissible only if the extension does not amount to more than one year in each case. If the policyholder has consumer status, the tacit extension takes effect only if they were expressly informed of it prior to the start of the period of notice.

(Article 8 para. 1 VersVG in conjunction with Article 6 para. 1 no. 1 KSchG)

If the policyholder concluded the contract as a consumer, they may cancel the contract at the end of the third year (or any subsequent year) regardless of the agreed contract period, observing a one-month notice period.

(Article 8 para. 3 VersVG)

10. Consequences of a breach of obligations

Article 6 VersVG limits the insurer's options to refuse payment of benefits in cases where the policyholder breaches contractually agreed obligations. As a general rule, a breach of obligations will release the insurer from paying the benefits only if the policyholder (or insured person) is at fault.

The insurer can assert a merely negligent breach of obligations only if the policyholder was provided with the insurance terms and conditions or another document specifying the obligation in advance.

11. Payment of insurance benefits

The insurer must pay cash benefits on completion of the necessary investigations. Irrespective of this stipulation, the benefits become due in any event if, within two months of requesting a cash benefit, the policyholder demands an explanation from the insurer as to the reasons why the investigations have not yet been completed and the insurer does not meet this demand within one month. Any agreement that releases the insurer from the obligation to pay default interest is invalid.

(Article 11 VersVG)

12. Complaints Handling

Insurance and reinsurance undertakings shall establish units and define procedures that permit policyholders and other affected parties, in particular consumer protection associations that have a justified interest to submit complaints about the insurance and reinsurance undertaking as well as through insurance and reinsurance distributors that the insurance or reinsurance undertaking makes use of. Such complaints must in any case be handled and responded to.

(Article 127e VAG 2016)

13. Special Cancellation Right under the Insurance Contract Act

In addition to general rights of withdrawal (especially under the KSchG and the Fernfinanzdienstleistungsgesetz), under the current legal situation the policyholder may withdraw from the insurance contract in writing within 14 days, in the case of life insurance within 30 days, without stating reasons, pursuant to *Article 5c VersVG* (except in the case of insurance contracts for large risks pursuant to Article 5 No. 34 VAG 2016). A corresponding premium shall be paid to the insurer for the duration of temporary cover. The cancellation period shall begin on the day on which the insurance contract came into effect and the policyholder was informed thereof, but not before the policyholder has received the following information:

1. the insurance policy,
2. the insurance terms and conditions,
3. the provisions on the determination of the premium, if this is not determined in the application, and on envisaged changes to the premium, as well as
4. information on the cancellation right.

Requirements for the information about the cancellation right can be found in Article 5 para. 3 VersVG.

The cancellation right expires at the latest one month after receipt of the insurance policy including information on the cancellation right.

In connection with the cancellation rights under the VersVG, the effective date and transitional provisions under Article 191c VersVG (in particular regarding Articles 5b, 5c, 165a, 176 para. 1a VersVG) must be observed.

14. Special provisions for life insurance

The insurer's additional information requirements, and the policyholder's special right of withdrawal have already been covered. In addition, the following provisions appear particularly noteworthy:

14.1. Pension products

State-sponsored retirement provision contracts pursuant to Article 108g of the Income Tax Act 1988 (EStG 1988; Einkommensteuergesetz 1988), supplementary pension insurance pursuant to Article 108b para. 1 no. 4 EStG 1988 and contracts for future safeguarding pursuant to Article 3 para. 1 no. 15 lit. a EStG 1988 shall be considered as pension products pursuant to Article 2 (2) (e) of Regulation (EU) No 1286/2014.

In the case of contracts concluded after 30.09.2018 for state-sponsored retirement provision contracts pursuant to Article 108g EStG 1988 and supplementary pension insurance pursuant to Article 108b para. 1 no. 4 EStG 1988, pension fund facilities and insurance undertakings shall have to obtain from customers the information that is required in order to identify their needs and wishes, in particular with regard to their financial situation and their targets regarding old age provision, and to recommend the contract to the customer from the list of suitable contracts for the satisfaction of their wishes and needs, that best corresponds to their needs and wishes.

(Article 2 PRIIPs Enforcement Act (PRIIP-Vollzugsgesetz))

14.2. Insurance on another person's death

If an insurance contract is concluded on the death of a person other than the policyholder, that person must give their written consent for the contract to be valid if the insurance sum exceeds the amount of customary funeral costs. In this context, reference is made to the FMA Regulation on Burial Costs 2016 (Beerdigungskostenverordnung 2016). The Regulation is published on the FMA website at:

<https://www.fma.gv.at/download.php?d=2027>.

(Article 159 VersVG)

14.3. Withdrawal on the insurer's part

The insurer may only withdraw from the contract because of the policyholder having violated a notification obligation on conclusion of the contract or the risk having increased (except in the case of the policyholder's fraudulent behaviour) within a period of three years.

(Articles 163 and 164 Insurance Policy Act)

14.4. Premium exemption

The policyholder may request conversion into a paid-up insurance policy as of the end of the year of coverage at any time. In such a case, the agreed principal amount or annuity will be replaced by the amount that results from the bases of premium calculation according to the recognised actuarial principles. The premium-free insurance benefit must be calculated for the end of the current year of coverage (taking into consideration overdue premiums). The insurer shall only be entitled to make deductions if they have been agreed upon and are appropriate.

Instead of a conversion into a paid-up insurance, payment of the surrender value may also be contractually agreed.

Where the insurer terminates the contract due to the policyholder having defaulted on premium payments, the insurance will be converted into a paid-up insurance.

(Articles 173, 174 and 175 VersVG)

14.5. Surrender value

In the case that an endowment insurance on death is rescinded as a result of withdrawal (except in the case of a withdrawal pursuant to *Article 5c VersVG* – see the explanations under item 13), termination or being contested, the insurer must refund the surrender value. This shall also apply in the event that the insurer is released from the obligation to pay the agreed principal amount after the event that is insured against has occurred (except if the insured person was murdered by the policyholder). The surrender value is to be calculated in accordance with recognised actuarial principles, applying the bases of premium calculation and using the end of the current insurance period to determine the present value of the insurance. Overdue premiums will be deducted from the surrender value.

The insurer shall only be entitled to make deductions if they have been agreed upon and are appropriate. *Article 176 para. 5 VersVG* contains rules for taking into consideration of the acquisition costs when calculating the surrender value. The agent's claim to commission is based on *Article 176 para. 6 VersVG*. In addition, *Article 176 para. 2a and 2b* contain provisions on the consideration of the commission.

(Article 176 VersVG)

15. Data protection

General provisions regarding data protection are defined in the Federal Act concerning the Protection of Personal Data (DSG; Datenschutzgesetz) as well as in Regulation (EU) 2016/679 (General Data Protection Regulation); furthermore there are also comprehensive special provisions for the area of contractual insurance that apply on the basis of *Article 11a VersVG* regarding the collection and processing of personal healthcare data.

Where benefits in the insurance of healthcare costs are billed directly between the insurer and the healthcare provider, then this regards an instruction by the insurance policyholder or the insured person (*Article 11b VersVG*). *Article 11c VersVG* defines the parties to whom health-related data may be submitted if no consent is available for the individual case of submission. Pursuant to *Article 67 of the Genetic Engineering Act (GTG; Gentechnikgesetz)*, analytical genetic data is not allowed to be collected.

16. Portfolio transfers

Where the insurance contracts relate to risks situated in Austria, the acquiring undertaking or acquiring branch must inform the affected policyholders without delay about the portfolio transfer following the

approval by the FMA. The policyholders are entitled to terminate the insurance contract at the end of the insurance period in which they have learned about the portfolio transfer and to request repayment of the portion of the premium for the period of time following the termination of the insurance relationship subject to deductions of costs incurred for this period of time. The insurance undertaking must inform the affected insurance policyholders about this right. The insurance is not able to make use of an agreement that deviates from this provision.

Under the conditions set out in Article 31 para. 3 VAG 2016 the FMA shall upon request exclude the termination right of the insurance policyholders.

The termination right of the insurance policyholder shall not apply to legal transactions that precipitate a portfolio transfer by way of universal succession.

(Article 31 VAG 2016)

17. Disclosure of specific information in relation to Accounting and Group Accounting

The annual financial statement as well as the notes to the financial statement as well as the management report are required to be available at latest within six months of the end of the financial year until the end of the third calendar year following the financial year at the registered office of the insurance or reinsurance undertaking as well in all its business premises for consultation purposes. The annual financial statement and management report of an Austrian branch as well as the annual financial statement and management report of the undertaking as a whole must be available for consultation at the registered office of the Austrian branch. In the case of branches of foreign joint stock companies, the documentation is required to be available in German. The entire documentation is to be provided to anyone upon request in return for a cost-covering contribution.

(Article 246 paras. 1, 2 and 4 VAG 2016)

18. Taxation of Insurance Contracts

The *Insurance Tax Act 1953* as amended form the relevant legal basis.