

Luxembourg and the triangle of security

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Luxembourg has become the largest European centre for cross-border unit-linked life insurance. Its insurers sell policies under the freedom to provide services to policyholders throughout the European Union, with France, Belgium, Italy and Germany among the principal markets. The success of Luxembourg rests on a combination of supervisory practice, a well-developed infrastructure of banks and fund administrators, and a system of policyholder protection known as the triangle of security.¹

The triangle of security consists of three elements. The insurer must deposit the assets that represent its technical provisions with a custodian bank approved by the supervisory authority. The insurer, the custodian bank and the Commissariat aux Assurances conclude a tripartite agreement under which the custodian may not release the assets without the consent of the supervisor in certain circumstances, and under which the supervisor may block the assets if the insurer's position deteriorates. Finally, the policyholders enjoy a statutory privilege over the assets representing the technical provisions, which ranks ahead of all other creditors of the insurer in the event of its insolvency, including, according to the prevailing description, the state and the employees.²

The investment rules for unit-linked policies are laid down in a circular of the Commissariat aux Assurances. Circular 15/3 distinguishes between external funds, internal collective funds (*fonds interne collectif*, FIC), internal dedicated funds (*fonds interne dédié*, FID) and specialised insurance funds (*fonds d'assurance spécialisé*, FAS). It also classifies policyholders into categories according to their investable wealth and the premium paid. The higher the category, the wider the range of permissible assets, so that a policyholder with large investable wealth may hold, through a dedicated fund, assets such as unlisted securities or private equity that are closed to a policyholder in the lowest category. The circular requires the insurer to assess the policyholder's category and to document it.³

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The Luxembourg system has made the country the reference point against which other jurisdictions are measured. Its weak point lies outside Luxembourg's control: the recognition of the policies in the policyholders' countries of residence. A Luxembourg policy that offers a French resident the advantages of the French *assurance-vie* regime may offer a German resident none of the advantages of German life insurance taxation if its investment design does not meet German requirements. Luxembourg insurers have therefore developed country-specific versions of their products, each designed for the tax law of a particular market.

1 Notes

1. On the Luxembourg life insurance market and its cross-border business, see the annual reports of the Commissariat aux Assurances (CAA) and of the Association des Compagnies d'Assurances et de Réassurances (ACA). Figures to be verified. ↩
2. See the Luxembourg Law of 7 December 2015 on the insurance sector, as amended, in particular the provisions on the deposit of assets and the privilege of policyholders, and the CAA's regulations on custodian banks. To be verified. ↩
3. Commissariat aux Assurances, Circular letter 15/3 on the investment rules for unit-linked life insurance products, which replaced earlier circulars including 08/1. On the categories of policyholders (defined by thresholds of securities wealth and minimum premium) and the fund types FIC, FID, FAS and external funds, see the text of the circular and its subsequent amendments. Thresholds and current version to be verified. ↩

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