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NEW APPLICABLE LEGISLATION ON INSURANCE DISTRIBUTION

The Law no. 236/2018 on insurance distribution ("**Law no. 236/2018**"), which transposes the Directive (EU) 2016/97 of the European Parliament and of the Council of January 20th 2016 on insurance distribution (*Insurance Distribution Directive, "IDD"*) was published in the Romanian Official Gazette no. 853/08.10.2018. The law will enter into force on 11.10.2018, taking into consideration the legislative technique rules and the principle of the non-retroactivity of law, despite its provisions stipulating that the law shall enter into force on 01.10.2018.

Upon the entry into force of the Law no. 236/2018, the Law no. 32/2000 on the activity and supervision of intermediaries in insurance and reinsurance will be repealed and the activity of insurance intermediaries will have to be restructured in accordance with the new regulations.

The new law aims to remodel the insurance and reinsurance market by emphasizing the obligation to observe the fundamental rights of consumers and clients, both in the pre-contractual phase and the contractual one, after acquiring an insurance product.

Moreover, the Law no. 236/2018 innovates this sector in particular by: establishing new rules for registration of primary or secondary intermediaries with the Financial Supervisory Authority ("**ASF**") in their dedicated registers and, as the case may be, for obtaining the operating authorization, establishing the prohibition of offering incentives to those involved in the insurance distribution, if these incentives are offered to promote a particular insurance product, to the detriment of the clients' interests, obliging the insurance intermediaries and their employees to constantly update their knowledge and provide information to consumers in an easily understandable form, requiring to the insurance intermediaries and insurers to take all the appropriate measures to detect interest conflicts, imposing standards that are aligned with those for investment products for the sale of life insurance products with investment component *etc.*

At the same time, the new law sanctions more severely the failure to comply with its requirements, and for certain infringements, the fines may reach up to RON 22,400,000 (approximately EUR 4,800,000) or 5% of the total annual turnover according to the latest available approved annual financial statements or, as the case may be, according to the most recent consolidated accounts or twice the value of the benefit or of the avoided loss resulting from the infringement and/or such infringements may even be sanctioned by imprisonment.

In order for IDD's provisions to be effectively applicable on the local market, it is important to mention that it is required that ASF, as per its prerogatives of transposition and implementation into the national legislation of the European Union laws, issues guidelines for the application of the Law no. 236/2018.

The provisions of the Law no. 236/2018 keep the main provisions of the draft law adopted by the Romanian Government, without essential changes. For further details regarding the changes brought by the new law, please take into consideration our previous publication, which you can access at the following link:

http://www.bpv-grigorescu.com/wp-content/uploads/2018/06/180618_The-impact-of-the-IDD-transposition-on-the-insurance-distribution-in-Romania.pdf.

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