

LUXEMBOURG LIFE ASSURANCE: A LEVEL OF PROTECTION UNIQUE IN EUROPE

The financial crisis has reminded investors of the importance of protecting their capital. Subscribers to Luxembourg life assurance products can sleep easily: thanks to a "super privilege" anchored in Luxembourg law, they benefit from a level of legal protection that is unique in Europe.

When subscribing to a Luxembourg life assurance contract, insurance clients benefit from a level of savings protection superior to that which is offered in most other European countries. Thanks to the super privilege mechanism, the client is guaranteed to recuperate the value of his/her contract in the event of bankruptcy of the insurance company. This legal protection is ensured by the separation of life assurance assets, in accounting terms, from the other assets of the life assurance company.

Luxembourg regulation requires that assets representing life assurance engagements be held separately at a credit establishment authorised by the Luxembourg insurance supervisory authority, the CAA (*Commissariat aux assurances*). This custody arrangement is formalised by a three-way agreement between the insurance company, the depositary bank and the CAA itself.

By contrast with the company's own assets, the assets representing life engagements are not "free". It is forbidden, for instance, for the company to pledge them or to use them as security for engagements of its own. Concretely, if the insurer can no longer honour its client engagements due to persistent financial difficulty (bankruptcy, liquidation) the life assurance contract holder automatically becomes a privileged creditor. This privilege gives him priority over all other creditors, including the Treasury, the Social Security authorities and the employees of the company (article 39 of the Luxembourg Law of 6 December 1991). This privilege covers the entirety of the technical provisions, not the sum of the premiums paid.

The CAA monitors very closely compliance by insurance companies with these legal requirements. By signing the agreement between the company and the depositary bank, it guarantees the separation of assets held for insurance contract holders from the assets of the shareholders of the company. The Depositary Agreement (*Convention de dépôt*) is obligatory and



not subject to negotiation. In practical terms, the custodian bank undertakes to warn the CAA without delay of any guarantee or privilege affecting these assets that might imperil the super privilege. The CAA then has the right to block all of the assets concerned.

The guarantee offered by the super privilege is a strong argument for use in the cross-border distribution of life assurance products within the framework of the single European market and the freedom to offer services. In partnership with private banks and insurance brokers, Luxembourg insurance companies enable European citizens to subscribe to a Luxembourg life assurance contract, accompanied by the same level of information and explanatory documentation as would be required for a life product offered in their country of residence. The Luxembourg super privilege thus contributes to the development of life assurance contracts into real wealth management tools, by which investors obtain access to a wide range of financial products within a particularly safe environment.

Jacques Hansoulle, Managing Director Development,
Fortis Luxembourg-Vie S.A