



GLOBAL UPDATE

Events, developments, and opportunities in the international marketplace

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Belgium - Valuable Insight on Liability Coverage from our Network Partner on the Ground



Belgium is a very interesting market, where General Liability and Employers Liability (EL) placements have particular nuances. While working on a recent Commercial General Liability (CGL) placement, Globex received some valuable local market intelligence. Globex had some specific questions and we thank our sources on the ground for their assistance in helping us better understand the insights of CGL & EL in Belgium.

Globex sought to place a CGL policy for a local office of a France-based insured, and we learned about the differences between a representative office (RO) and a “registered branch of a foreign insured”:

Any foreign investor or business owner looking to better understand the commercial potential of the Belgian market, and who is not ready to fully commit to opening a Belgian company or a branch, has the option to initially open a ‘representative office’ (RO) instead. The RO acts as a connection or liaison between the head office overseas, and the potential clients, competitors, and business partners in Belgium. An RO may only engage in non-profit activities, such as market research, and establishing contacts with prospective customers and partners, but it should not generate income.

The RO’s presence is, in principle, considered non-taxable. It is not allowed to invoice within Belgium for services or products. Nor is it permitted to sign contracts on behalf of the head office, buy real estate, or import goods or products. As a result, an RO has no permanent establishment (PE) for income tax or VAT purposes. It may recover the Belgian input VAT via the VAT credit refund procedure, by letting the head office apply for a Belgian VAT number as a foreign taxpayer.

It is important to mention that an RO is not a separate legal entity and is therefore not subject to any separate registration, incorporation, publication, or accounting requirements like a branch or a subsidiary. It is a temporary administrative arrangement. The RO is not represented by a legal representative, such as a branch office would be. If the RO wants to open a bank account, contract a supplier, start a payroll, or rent an office space, it can only do so in the name of the head office overseas, or in the name of one of the private individuals that run the Belgian RO. The foreign head office will remain fully liable for the RO’s operations.

When asked if the RO of the foreign insured can obtain a CGL policy issued by a Belgian insurer, Globex was advised that this was not possible. The RO would require a Belgian registered address; hence it can be considered “insurable interest,” in which case a Belgian insurer can assist with the policy issuance.

We take the opportunity to remind our readers that irrespective of the status of the Belgium branch, whether they are an RO, a PE, or a fully registered entity in Belgium, the Employers Liability cover is a compulsory line of business and must be issued by a licensed Belgian carrier. This is a state-mandated coverage in Belgium. For additional information about the nuances of Liability coverage in Belgium, do not hesitate to reach out to a Globex member.

El Salvador - Fire Brigade Tax

Decree No. 520 of the Law of the Fire Department of El Salvador, issued in October 2022, repealed the 4% fire brigade tax applicable to fire insurance premiums, and introduced a new 5% 'ad-valorem' tax on all insurance premiums (excluding credit-related insurances). During a recent conversation with our network partners in El Salvador, Globex wanted to obtain a clearer understanding of this 5% fire brigade tax which came into effect on January 7th, 2023:



This 5% fire brigade tax applies to all lines of business. Any policy endorsements which have an effective date post-January 7th, 2023, will also be subject to this tax. Policies with effective dates before this date will not see any change in terms and conditions. The new tax imposed by the El Salvador government is a reinsurer cost, as it is payable by the local insurer and not the insured. This reinsurer cost is in addition to the current 5% withholding tax on premiums paid or credited to non-domiciled insurers, reinsurers, bond insurers, or reinsurance brokers authorized by the supervisory authorities.

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China: Employers' Liability in Different Provinces



Globex has placed many an Employer's Liability (EL) policy in China for our Partner Markets. We recently learned that the Regulator in China, the China Insurance Regulatory Commission (CIRC), has been more stringent about the issuance of EL policies. We were recently reminded by our network partners in China that the EL coverage needs to be issued by the insurer's branch office, which has a domiciled and registered address in the same province where the local insured is registered.

Some background on the EL Policy Issuance Requirement: The provincial requirements are not a new regulation. According to the regulations of CIRC, just like lines of business such as Auto Liability insurance, EL insurance should not be written by the insurer offices outside of the region where the insured is located. This regulation was issued in 2002 and has been in effect since then. Despite the requirement, local insurers which issued EL as part of a multinational program, were able to issue an EL policy, even if the location of the insured and the local insurer did not coincide. In the past, there was some flexibility on this matter. Due to heavy fines issued to some insurers by CIRC in recent months, this regulation is being diligently followed in the marketplace. Please let us know if you have any questions.

- Placed a fronting policy for Management Liability in Tanzania for an exploration and development company pursuing copper, uranium, and base metals projects in Australia and Tanzania.

- Secured a reinsured Commercial General Liability policy in China for a global company that specializes in the development and distribution of home fashion products.

- Instrumental in the placement of reinsured Package and Property policies in South Africa for a leading Security Risk Management services firm.

- Placed a Property fronting policy in Mexico for a Canadian manufacturer of snowmobiles, all-terrain vehicles, side-by-side motorcycles, and personal watercraft.

- Secured a Commercial General Liability fronted policy in Ireland for a clean energy company that provides global renewable energy products for the residential, commercial, and industrial sectors.



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