

INSURANCE & RISK MANAGEMENT

Flying To Europe? Think Again... E.U. Insurance Regulation Update

April 4, 2005

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On April 30, 2005, **Regulation 785/2004 (106 KB PDF)** ([EUreg785-2004.pdf](#)) of the European Parliament will take effect. The regulation sets out mandatory liability limits (inclusive of war risk) in respect of passengers, cargo, baggage and third parties and will affect almost all aircraft carriers and operators, both commercial and private, operating flights within, into, out of, or over the territory of an EU Member State. Such Member States include: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, The Netherlands, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

The insurance requirements set out in the regulation are two fold:

First - Passenger Liability: \$250,000 SDR's (Special Drawing Right as defined by the International Monetary Fund) or approximately \$359,964 US Dollars per passenger on aircraft weighing 2,700 kg or 6,600 pounds or more (aircraft weighing less would require 100,000 SDR's or \$143,986 US Dollars), **Baggage Liability:** 1,000 SDR's or \$1,440 US Dollars per passenger, and **Cargo Liability:** 17 SDR's or \$24 US Dollars per kg (2.2 lbs.) for commercial operations.

Second – Third Party Liability for each and every aircraft:

Up to	MTOW (kg)	MTOW (lbs)	SDRS	US Dollars
	500	1,103	750,000	\$1,079,893
	1,000	2,205	1,500,000	\$2,159,787
	2,700	5,954	3,000,000	\$4,319,574
	6,600	14,553	7,000,000	\$10,079,005
	12,000	26,460	18,000,000	\$25,917,432
	25,000	55,125	80,000,000	\$115,188,629
	50,000	110,250	150,000,000	\$215,978,679
	200,000	441,000	300,000,000	\$431,957,357
	500,000	1,120,500	500,000,000	\$719,928,929
	Over	See Above	700,000,000	\$1,007,900,500

MTOW = Maximum Take Off Weight

By way of example, the regulation would require that aircraft such as the Citation X, Falcon 50 and Hawker 800 carry \$118,788,269. Here is how this figure was calculated:

$$\$115,188,629 + \$3,599,640 (\$359,964 \times 10 \text{ passenger seats}) = \$118,788,269$$

Currently, there are no war risk insurance requirements in the United States. Germany requires €60,000,000, China (Hong Kong) requires \$200,000,000, and Poland requires €60,000,000.

Air carriers and aircraft operators are responsible for ensuring that the necessary insurance cover exists for each and every flight, regardless of whether the aircraft operated is owned by them, leased or the subject of another form of joint or franchise operation, code-sharing or similar agreement.

The insurance requirements set out in the regulation must include cover for war, terrorism, hijacking, sabotage, unlawful seizure of aircraft, and civil commotion. In addition, the third party element of the cover must be on an 'each accident, each and every aircraft' basis. However, in respect of third party war and terrorism cover, the cover may be in the aggregate.

Non-Community air carriers and operators of aircraft registered outside the EU, conducting flights over EU Member States without landing or taking off from a Member State, are not subject to the mandatory minimum limits for passenger, baggage or cargo liability but must still comply with the minimum third party liability coverage requirement. Notably this limited exemption refers specifically to 'Non-Community air carriers', therefore 'Community air-carriers' (air carriers with a valid operating license granted by a Member State) must carry the minimum cover for passenger, baggage or cargo liability. Additionally, State aircraft are not required to carry any of the mandatory insurance minimums set out in the regulation.

Failure to comply with the regulation by Community air carriers may lead to the withdrawal of the air carriers' operating license. Infringement by non-community air carriers and to aircraft operators using aircraft registered outside the EU may lead to refusal of the right to land by the relevant Member State. Additionally, if the relevant authorities of Member States are not satisfied that the conditions of the regulation are being met, aircraft will not be allowed to take-off until the requisite insurance cover has been evidenced.

Each EU member state has the right to inspect aircraft landing in that state, and may require verification of compliance with the new insurance regulation. A current insurance certificate showing the necessary coverages should be carried on board the aircraft in order to evidence compliance and avoid unexpected and expensive delays and possible refusal of the right to land in EU territory.



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