

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular on the Publication of New Insurance Rules addressed to Authorised Insurance and Reinsurance Undertakings

1.0 Introduction

Reference is made to the Consultation Document issued by the MFSA on the 30th October 2015 relating to Insurance Rules on System of Governance; Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules (Solvency II – Pillar 1 Requirements); and Financial Statements and Supervisory Reporting Requirements. Reference is also made to the Consultation Document issued on the 16th November 2015 in relation to Freedom of Establishment and Freedom to provide Services by a European Insurance Undertaking and a European Reinsurance Undertaking; Freedom of Establishment and Freedom to provide Services by a Maltese Insurance Undertaking and a Maltese Reinsurance Undertaking; Provisions applicable to specific classes of general business of insurance; Separate Management of Long Term Business and General Business, and Information for policyholders. A feedback statement on the Consultation Documents will be issued shortly.

In conjunction with this Circular, the MFSA is today publishing the Insurance Rules issued under the Insurance Business Act (Cap.403). These Insurance Rules will come into force on the 1st January 2016.

2.0 Framework of Maltese Insurance Legislation transposing Solvency II

The Insurance Rules issued under the Insurance Business Act (Cap.403) supplement the Insurance Business Act (as amended by Act XXXIII published on the **20th November 2015** in the [Government Gazette of Malta No. 19,503](#)) and the following Legal Notices published on the **10th December 2015** in the Government Gazette of Malta No. 19,509:

- Legal Notice 390 of 2015 - Insurance Business (Criteria of Sound and Prudent Management) (Revocation) Regulations, 2015
- Legal Notice 391 of 2015 - Companies Act (Cell Companies Carrying on Business of Insurance) (Amendment) Regulations, 2015

- Legal Notice 392 of 2015 - Insurance Business (Incorporated Cell Companies Carrying on Business of Insurance) (Amendment) Regulations, 2015
- Legal Notice 393 of 2015 - Insurance Business (Approved Auditor) (Amendment) Regulations, 2015
- Legal Notice 394 of 2015 - Insurance Business (Companies Accounts) (Revocation) Regulations, 2015
- Legal Notice 395 of 2015 - Insurance Business (Companies Carrying on Business of Affiliated Insurance) (Amendment) Regulations, 2015
- Legal Notice 396 of 2015 - Insurance Business (Continuance of Companies Carrying on Business of Insurance) (Amendment) Regulations, 2015
- Legal Notice 397 of 2015 - Insurance Business (Fees) (Amendment) Regulations, 2015
- Legal Notice 398 of 2015 - Insurance Business (Linked Long Term Contracts) (Amendment) Regulations, 2015
- Legal Notice 399 of 2015 - European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2015
- Legal Notice 400 of 2015 - Insurance Business (Commission Delegated Regulation on Solvency II) Regulations, 2015
- Legal Notice 401 of 2015 - Insurance Business (Exemptions) Regulations, 2015
- Legal Notice 402 of 2015 - Insurance Business (Long Term Business Contract Statutory Notice) (Amendment) Regulations, 2015
- Legal Notice 403 of 2015 - Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) (Amendment) Regulations, 2015
- Legal Notice 404 of 2015 - Insurance Business (Solvency II Transitional Provisions) Regulations, 2015
- Legal Notice 405 of 2015 - Protection and Compensation Fund (Amendment) Regulations, 2015
- Legal Notice 406 of 2015 - Various Financial Services Laws (Amendment No. 2) Act, 2015 (Act XXXIII of 2015) - Commencement Notice
- Legal Notice 407 of 2015 - Insurance Business (General Provisions of Supervision) Regulations, 2015
- Legal Notice 408 of 2015 - Insurance Business (Maintenance of Assets) Regulations, 2015

- Legal Notice 409 of 2015 - Insurance Business (Penalties for Offences and Infringements) (Amendment) Regulations, 2015
- Legal Notice 410 of 2015 - Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations, 2015
- Legal Notice 411 of 2015 - Insurance Intermediaries (Penalties for Offences and Infringements) (Amendment) Regulations, 2015.

The main purpose of the Insurance Rules being issued under the Insurance Business Act (Cap.403) is to transpose the remaining provisions of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast). Some of the current insurance rules are being retained, aligned and updated as part of the transposition exercise of the Solvency II Directive.

The Insurance Rules being issued under the Insurance Business Act (Cap.403) are consolidated in a single rulebook which is divided in three parts and consists of fifteen Chapters.

- **Part A** which is entitled Authorisation for carrying on Business of Insurance is composed of four chapters and contains Insurance Rules related to the authorisation process.
- **Part B**, entitled Conditions for carrying on Business of Insurance is made up of nine chapters and contains Insurance Rules in relation to the various requirements which an authorised insurance undertaking, an authorised reinsurance undertaking, a captive insurance undertaking and a captive reinsurance undertaking, where applicable, are required to comply with on an on-going basis.
- **Part C**, entitled Other Provisions is made up of two chapters, and contains Insurance Rules related to Reinsurance Special Purpose Vehicles and Phasing-in Provisions.

As a consequence of the above the various insurance rules which had been issued under the Act (Insurance Rule 1 to Insurance Rule 33) are being repealed with effect from the 1st January 2016.

3.0 Solvency II Legal framework

Licence holders are reminded that the Solvency II Directive is a framework Directive under the Lamfalussy process which has been supplemented with delegated acts issued by the European Commission in the form of an EU Regulation entitled the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014, with Implementing or Regulatory Technical Standards issued in the form of EU Regulations and with Guidelines issued by EIOPA in accordance with Regulation (EU) No. 1094/2012 of the European Parliament and of the

Council of the 24 November 2010, establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority). EU Regulations have direct effect as from the date they come into force and are considered to form part of the Member State's legal framework. Therefore, Licence holders should note that apart from the aforementioned Maltese insurance legislation they are required to take into consideration the EU legislation mentioned in this paragraph.

Any queries are to be addressed to the Insurance and Pensions Supervision Unit by email on ipsu@mfsa.com.mt

Communications Unit
Malta Financial Services Authority
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