

Insurance Rule 22 of 2009

Exercise of Passport Rights by European Insurance Undertakings and European Reinsurance Undertakings - Establishment

Rule pursuant to article 4 of the Act

1. (1) This Insurance Rule on the exercise of passport rights by European insurance undertakings and European reinsurance undertakings seeking to establish a branch in Malta (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 4 of the Act and regulations 3 and 5 of Part I and Part V of the European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2004 (“the Regulations”).

(2) This Rule shall come into force on the []2009.

Application

2. This Rule applies to -

(1) (a) a European insurance undertaking which is seeking to establish a branch in Malta in exercise of a European right;

(b) a European insurance undertaking which has received authorisation under article 4 of Directive 2002/83/EC and article 6 of Directive 73/239/EEC to carry on both long term business and general business and seeks to extend its business in Malta from general business to long term business (or vice versa);

(c) a European insurance undertaking which is seeking to establish a branch in Malta in lieu of, or in addition to, providing services in Malta in exercise of a European right;

(d) a European insurance undertaking which has established a branch in Malta in exercise of a European right, and seeks to effect changes in the branch’s details,

(the “European insurance undertaking”)

(2) a European reinsurance undertaking which is seeking to establish a branch in Malta in exercise of a European right.

Scope

3. The scope of this Rule is to determine –

(a) pursuant to regulation 3(2)(c) of the Regulations, the particulars to be included in the consent notice forwarded by the supervisory authority of the European insurance undertaking to the Authority;

(b) pursuant to regulation 3(5) of the Regulations, the manner in which a branch of a European insurance undertaking is to effect changes in the branch’s details;

(c) pursuant to regulation 5 of the Regulations, the information to be provided by a European insurance undertaking, covering risks relating to class 10 of Part I of the Third Schedule to the Act, not including carrier’s liability;

(d) pursuant to Part V of the Regulations, the information to be provided by a European reinsurance undertaking to its supervisory authority in respect of the establishment of a branch in Malta of the undertaking concerned and which information will be submitted to the Authority by the supervisory authority of the European reinsurance undertaking.

European Insurance Undertaking establishing a branch in Malta

4. A European insurance undertaking which is seeking to establish a branch in Malta in exercise of a European right must satisfy the establishment conditions. The establishment conditions are those specified in article 5 of this Rule.

Establishment conditions

5. The establishment conditions are that:

(1) the Authority has received a notice from the supervisory authority of the European insurance undertaking that it has given its consent to the European insurance undertaking to establish a branch in Malta;

(2) the consent notice includes –

(a) name and address of the head office of the European insurance undertaking;

(b) name and address of the Maltese branch, including, business telephone, fax number/s in Malta and any e-mail address;

(c) details relating to the general representative:

(i) the name of the general representative:

(ii) copy of the appointment of the general representative who must possess sufficient powers to bind the European insurance undertaking in relation to third parties and to represent it in relations with the Authority and courts in Malta;

(iii) a Personal Questionnaire (“PQ”) in the form set out in Insurance Rule 15 of 2008 is to be submitted, unless the general representative of the European insurance undertaking seeking to establish a branch in Malta has been duly approved by the foreign authority;

(d) the address in Malta from where documents may be obtained from the undertaking, which shall also be that of the general representative and to which they may be delivered;

(e) a scheme of operations indicating, in particular, the type of operation envisaged, setting out, amongst other things:

(i) the class or classes of long term business or class or classes or part classes of general business the branch proposes to carry on;

(ii) the structural organisation of the branch;

(iii) a PQ submitted in the form set out in Insurance Rule 15 of 2008, to be completed by the senior management of the branch of the European insurance undertaking unless the individuals concerned have been duly approved by the foreign authority;

(iv) a description of the nature of the risks and commitments which the undertaking proposes to cover;

(v) the principles which the undertaking uses for guidance for reinsurance;

(vi) a breakdown of forecast costs and expenses of installing the administrative services and the organisation for securing business and the financial resources intended to cover these costs, and if the risks to be covered fall within class 18 of Part I of the Third Schedule to the Act, the resources available to the undertaking for providing the assistance;

(vii) for the first three financial years:

(aa) estimates relating to overheads other than cost of installation, in particular, general running expenses and commissions;

(bb) estimates of premiums or contributions and of claims;

(f) a confirmation that the European insurance undertaking is authorised to carry on the business of insurance in the home Member State which it proposes to carry on in Malta;

(g) a certificate issued by the foreign authority where the head office of the European insurance undertaking of the branch is situated, attesting that the European insurance undertaking satisfies the minimum margin of solvency provisions contained in the First Non-Life Directive 73/239/EEC as amended by the Third Non-Life Directive 92/49/EEC, or Codified Life Assurance Directive 2002/83/EC as the case may be;

(h) any other relevant information contained in the notice given by the European insurance undertaking to the foreign authority;

(i) details of any insurance guarantee scheme, if applicable, which is intended to provide to the satisfaction of the Authority that equivalent protection is available to policyholders of protected risks and protected commitments in a manner not being less favourable than that prescribed by Part III of the Protection and Compensation Fund Regulations, 2003 in the event of the insolvency of the European insurance undertaking:

For the purpose of this sub-paragraph, ‘protected risks’ and ‘protected commitments’ shall have the same meaning as is assigned to them in regulation 2 of the Protection and Compensation Fund Regulations, 2003;

(j) where the European insurance undertaking proposes to carry on business of insurance in Malta covering risks relating to class 17 of Part I of the Third Schedule to the Act, it is to specify the arrangement chosen from those described in article 3(2) of Directive 87/344/EEC of 22 June 1987.

European insurance undertaking covering risks relating to class 10

6. (1) Pursuant to regulation 5 of the Regulations, a European insurance undertaking seeking to carry on business of insurance in Malta in exercise of a European right covering risks relating to class 10 of Part I of the Third Schedule to the Act, not including carrier’s liability, is required to provide the Authority with the information specified in paragraph 2 of this article.

(2) The information required to be provided by the European insurance undertaking is the following:

(a) a copy of the motor policy of insurance to be issued by the branch of the European insurance undertaking;

(b) a declaration stating that the policy complies with the specific requirements in respect of such policies, contained in the Motor Vehicle Insurance (Third Party Risks) Ordinance

(Cap.104), and that the European insurance undertaking undertakes to comply with the provisions of any law relating to any such insurance which may from time to time be in force;

(c) a declaration that it has:

(i) signed the Malta Green Card Bureau Agreement;

(ii) signed the Motor Insurers' Bureau Domestic Agreement;

(iii) signed the Motor Insurance Pool Agreement whose object is to underwrite on behalf of members all Pool insurances as defined in the Agreement and to deal with all claims in relation thereto;

(iv) given an undertaking to the Protection and Compensation Fund Management Committee that it undertakes to compensate victims of road traffic accidents in the circumstances specified in Part IV of the Protection and Compensation Fund Regulations, 2003.

Extension of Activities

7. In the case of a European insurance undertaking which has already established a branch in Malta pursuant to a European right and wishes to extend its general business to include long term business (or vice versa), the particulars required by article 5 of this Rule are only in respect of the general business or long term business for which it intends to extend its activities.

European reinsurance undertaking establishing a branch in Malta

8. In the case of a European reinsurance undertaking which is seeking to establish a branch in Malta in exercise of a European right, the information which is to be provided by the supervisory authority of the European reinsurance undertaking to the Authority is the following:

(a) the name and address of the head office of the European reinsurance undertaking;

(b) the address of the branch, which shall also be that of the general representative;

(c) details relating to the general representative:

(i) the name of the general representative

(ii) copy of the appointment of the general representative who must possess sufficient powers to bind the European reinsurance undertaking in relation to third parties and to represent it in relations with the Authority and courts in Malta;

(iii) a Personal Questionnaire (“PQ”) in the form set out in Insurance Rule 15 of 2008 is to be submitted, unless the general representative of the European reinsurance undertaking seeking to establish a branch in Malta has been duly approved by the foreign authority;

(d) the type of reinsurance activity, according to article 4(2) of the Reinsurance Directive 2005/68/EC into which the planned business falls;

(e) a certificate issued by the foreign authority where the head office of the European reinsurance undertaking of the branch is situated, attesting that the European reinsurance undertaking satisfies the minimum margin of solvency provisions contained in the Reinsurance Directive 2005/68/EC.

The notification procedure

9. When the Authority receives a consent notice from the supervisory authority of a European insurance undertaking, it will acknowledge receipt immediately after the notice is received. Within two months of the date on which the Authority receives the consent notice, it will notify the European insurance undertaking and the foreign authority of the applicable provisions under which in the interest of the general good that business must be carried out in Malta.

Applicable provisions

10. (1) In the interest of the general good, a European insurance undertaking carrying on business of insurance in Malta through a branch, shall comply with Maltese rules (“applicable provisions”) as specified in the following paragraphs of this article.

(2) The applicable provisions are:

(a) the requirement to provide information to policyholders before concluding a contract of insurance or during the term of the contract in accordance with the Guidelines for European Insurance Undertakings Carrying on Business of Insurance in Malta under the Freedom of Establishment – Information for Policyholders set out in the Appendix attached to this Rule;

(b) pursuant to regulation 7 of the Regulations, a European insurance undertaking may advertise its services in Malta through any available means of communication in Malta provided that it complies with the provisions of Insurance Rule 14 of 2008 – Insurance Advertisement and Other Promotional Activities, in so far as they apply;

(c) European insurance undertakings carrying on long term business are required to comply with anti-money laundering legislation in force in Malta;

(d) the requirement to appoint a compliance officer and a money laundering reporting officer. The latter officer is to be appointed only in the case of a European insurance undertaking which is seeking to carry on long term business.

Changes to branch’s details

11. A European insurance undertaking which seeks to effect any changes in the branch’s details is required to satisfy the provisions as set out in the First Schedule to this Rule.

Statements

12. A European insurance undertaking which is seeking to establish a branch in Malta in exercise of European right shall submit to the Authority a statement by not later than the 30th June of each year in respect of the gross premiums receivable attributable to the business of insurance carried on in Malta through the establishment of a branch during the last calendar year in the form and content specified in Forms 1 and 2 as set out in the Second Schedule to this Rule.

Language

13. The particulars and information with regards to the business of insurance carried on by the European insurance undertaking through a branch in Malta required to be submitted by this Rule shall be provided in the English language

Repeals and Savings

14. (1) Saving the provisions of paragraph (2) of this article, Insurance Directive 22 of 2005 – Exercise of Passport Rights by European Insurance Undertakings- Establishment, is hereby repealed.

(2) Every action, directive, instruction, guideline or order whatsoever taken or commenced thereunder, shall continue to be valid and in force, as if such action, directive, instruction, guideline or order whatsoever were taken or commenced under this Rule.

FIRST SCHEDULE

1.0 Preliminary

1.1 A European insurance undertaking which has exercised a European right and has established a branch in Malta, is required to satisfy the following provisions prior to effecting any changes in the information submitted pursuant to article 6 of this Rule and the details relating to:

(a) the scheme of operations; or

(b) the structural organisation of the branch; or

(c) the address from where documents may be obtained and to which they may be delivered and to which all communications to the general representative are to be sent; or

(d) the name of the general representative.

2.0 Manner of making changes to branch's details

2.1 The European insurance undertaking is required to give notice to its foreign authority stating the details of the proposed change. Where the foreign authority does not object to the proposed changes, it shall communicate the information to the Authority as soon as possible and in any event not later than one month after it has received the information from the European insurance undertaking.

2.2 The Authority shall, if necessary, serve a notice on the foreign authority and inform the European insurance undertaking of any consequential changes in the applicable provisions as determined in article 10 of this Rule.

2.3 The Authority will immediately acknowledge receipt of the notice received pursuant to paragraph 2.1 above.

3.0 Extension of branch's activity relating to composite insurance undertakings

3.1 Where a European insurance undertaking which has received authorisation to carry on both long term business and general business and seeks to extend its business in Malta from general business to long term business (or vice

versa), the particulars required by as set out in article 5 of this Rule shall apply.

4.0 Changes to branch's details relating to the structural organisation

4.1 Where the change to the branch's structural organisation concerns an appointment of a senior manager, general representative, compliance officer and money laundering reporting officer of the branch in Malta, a PQ is to be completed by the individual concerned unless the individual has been duly approved by the foreign authority.

4.2 Where the change to the branch's structural organisation concerns a resignation of a senior manager, general representative or compliance officer and money laundering reporting officer of the branch in Malta, the Authority should be notified of such resignation within 14 days of the resignation. The notification by the European insurance undertaking shall also state whether that person's resignation has any regulatory implications or whether there are any other matters which the undertaking may wish to bring to the attention of the Authority in relation to that event.

SECOND SCHEDULE

(Article 12)

Form 1

General insurance business: Analysis of financial particulars

Name of insurer:

Member State or EEA State:

Calendar year ended: 31 December 200 ____

Currency in €

Groups of Classes								
	1	2	3	4	5	6	7	8
	Accident and sickness	Land vehicles, goods in transit and motor vehicle liability (carrier's liability only)	Motor vehicle liability (excluding carrier's liability)	Fire and other damage to property	Aviation, marine and transport	General liability	Credit and suretyship	Other classes
1								
Gross premiums written in respect of risks situated in Malta in calendar year								
2								
Cost of gross claims paid in respect of risks situated in Malta in calendar year								
3								
Cost of gross commission attributable to premiums shown in line 1								

SECOND SCHEDULE

(Article 12)

Form 2

Long term insurance business: Analysis of financial particulars

Name of insurer:

Member State or EEA State:

Calendar year ended: 31 December 200_____

Currency in €

Classes of Business								
I	II	III	IV	V	VI	VII	VIII	IX
Life and annuity 1	Marriage and birth 2	Linked long term 3	Permanent health 4	Tontines 5	Capital redemption 6	Pension fund management 7	Collective insurance etc 8	Social insurance 9

Gross premiums receivable where Malta is the country of commitment in calendar year	1								
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Appendix

Guidelines

**Provisions for European Insurance Undertakings
Carrying on Business of Insurance in Malta**

Information for policyholders

Application

1. These Guidelines apply, on a continuing basis to a European Insurance Undertaking (“the undertaking”) which in accordance with Article 32 of the Third Non-Life Directive or Article 40 of the Codified Life Assurance Directive, as the case may be, has been authorised by the supervisory authority of its home member state to carry on business of insurance in Malta under the provisions relating to the right of establishment and the Malta Financial Services Authority (“the MFSA”) has received the information required by the said Article 32 or Article 40.

2. These Guidelines shall not apply to a European Insurance Undertaking which proposes to enter or has entered into contracts relating to large risks as defined in Article 5(d) of the First Non-Life Insurance Directive 73/239/EEC of 24 July 1973 (as amended by Article 5 of the Second Non-Life Insurance Directive 88/357/EEC of the 22 June 1988).

Information for Policyholders

3. (1) The information which an undertaking is to communicate to a policyholder, including a potential policyholder, and the manner in which that information is to be furnished -

(a) as respects long term business:

(i) before concluding the contract, is the information set out in paragraphs 4 and 5 of these Guidelines;

(ii) during the term of the contract, is the information set out in paragraph 6 of these Guidelines;

(b) as respects general business, before concluding the contract, is the information set out in paragraph 7 of these Guidelines.

(2) Any information required to be furnished under these Guidelines shall be furnished in Maltese or English as it suits the person to whom the information is furnished, or in both languages or in a language agreed to by the parties.

Long term business: Before concluding a contract

4. (1) This paragraph applies to a contract entered into by an undertaking if -

(a) the effecting of the contract constitutes:

(i) the carrying on in Malta of long term business which is not business of reinsurance; or

(ii) the provision in Malta of long term business contracts; and

(b) the commitment covered by the contract is a commitment where Malta is the country of the commitment.

(2) Before entering into a contract to which this paragraph applies, the undertaking shall furnish the other party to the contract with the information required by -

(a) sub-paragraphs (3) and (4) of this paragraph in the case of long term contracts of insurance, other than linked long term contracts; or

(b) sub-paragraphs (3)(h), 3(l) and (4) of this paragraph and paragraph 5 of these Guidelines, in the case of linked long term contracts of insurance.

(3) The information required by this sub-paragraph is -

(a) a definition of each benefit and option;

Note: There should be ample explanation on the object and purpose of a policy so that each policy may be thoroughly understood.

(b) the term of the contract and the means by which it may be terminated;

(c) the method of paying premiums and the duration of the payments;

(d) the method of calculating bonuses and the distribution of bonuses;

Note: There should be sufficient explanation as to the different types of bonuses (*i.e. Reversionary or Terminal*) which an undertaking includes in a quotation and the difference between such bonuses.

The expression “method of calculating bonus” should not be interpreted to refer to the actuarial techniques in determining the bonus rates but to the manner in which bonuses are calculated *i.e.* whether on a daily or an annual basis, whether expressed as a percentage of premium or the sum assured plus accruing bonuses, or as a percentage of accruing reversionary bonuses only;

(e) an indication of surrender and paid-up values and the extent to which such values are guaranteed;

Note: There should be illustration of surrender values for specific years *i.e.* 1, 2, 3, 4, 5, 10, 15, 20, 25, etc.

Where no surrender value accumulates before the payment of 2 or 3 or more full year’s premium, that information should also be disclosed;

(f) the premiums for each benefit, whether a main or supplementary benefit and, where applicable, the amount and purpose of any charge or fee in addition to or included in the premium. The amount of document duty, if any, payable in terms of the Duty on Document and Transfers Act (Cap.364) is to be disclosed separately;

(g) information whether in the home member state there exists an insurance guarantee scheme which protects the

policyholder in the event of the insolvency of the undertaking or any limited compensation which may be available under the Protection and Compensation Fund, Regulations, 2003;

(h) information relating to the requirement under article 35 of Directive 2002/83/EEC of the European Parliament and of the Council of the 5 November 2002 concerning life assurance providing for the period within which a policyholder may cancel the life assurance contract;

(i) information furnished to a policyholder shall not contain a statement relating to past performance unless:-

(i) the basis on which such performance is measured is clearly furnished and the presentation is fair;

(ii) it is accompanied by a warning that past performance is not necessarily a guide to future performance;

(iii) the past performance is relevant to the undertaking or the policies offered by the undertaking;

(iv) the source of information is stated;

(j) general information on the tax arrangements applicable to the type of policy. It should be made clear that the information relates to any appropriate current legislation as at the date of submission of that information and that such tax arrangements may change in the future;

(k) the arrangements for handling policyholders' complaints concerning contracts of insurance by the undertaking;

(l) whether the parties to the contract are entitled to choose the law applicable to the contract and:-

(i) if so, the law which the undertaking proposes to choose; and

(ii) if not, the law which will be so applicable.

- (4) The information required by this sub-paragraph is -
- (a) the name and legal form of the undertaking;
 - (b) the country where the undertaking's head office is situated; and
 - (c) the address of the undertaking's head office and the name and address of the branch.

Supplementary information to be provided in relation to Linked Long Term Contracts of Insurance

5. (1) This paragraph applies to a contract entered into by an undertaking if the contract of insurance relates to class III of the Second Schedule to the Act.

(2) An undertaking seeking to establish a branch in Malta to carry on linked long term contracts of insurance shall provide a Product Information document, or other document which shall include the detailed terms and conditions of the linked long term contracts of insurance. The following minimum details are to be included in such document:

(a) a brief glossary to explain the meaning of a linked long term contract of insurance and other terms used in the document, such as fund, unit, bid/offer price, switching, notional allocation (it should be clear that the policyholder will be entitled to a *notional* allocation of units in the underlying funds or other instruments, rather than actual *ownership*, since such units would be owned by the undertaking) etc;

(b) a brief description of the nature of each underlying fund or asset linked to the contract. Where one or more collective investment schemes are linked to the policy, a clear reference to the name of such scheme/s shall be included together with brief details of the investment objective of such scheme/s and a statement indicating that the choice of scheme/s to which the policy is linked should be based on the full details included in the prospectus/scheme particulars of the scheme, copies of which are available upon request;

(c) definition of the units to which the benefits are linked;

(d) without prejudice to the information to be provided under paragraph 4(3)(f) above, all charges, including where applicable, switching charges. In this regard, note should be taken of the following:

(i) maintenance costs/charges should be reasonable and their indexation which may be different from the indexation rate for premiums, capped (i.e. the maximum rate by which such charges may be increased by the undertaking, should be specified in the policy terms and conditions);

(ii) annual percentage management charges may be levied by the undertaking provided the total charges (inclusive of any initial charges on purchase of units, maintenance charges etc), are reasonable. Moreover, the regular management charge should be calculated to ensure that no double charging (of fees levied by third party fund managers), occurs;

(iii) reference to any optional indexation of premiums at a specified rate;

(iv) reference to the frequency of reporting, free of charge, to policyholders which shall be at least annually, or if so requested by policyholders, at least every six months.

(3) Any projected values relating to linked long term contracts of insurance provided to potential policyholders, shall be net of all applicable charges, including exit fees and annual charges and shall contain, where applicable, and in a prominent manner:

(a) a clear description of the basis of the projections and a clear linkage to risk warnings;

(b) a warning that the projected values may not materialise, are merely indicative, and that market

conditions may be such as to result in returns which are by far inferior to the lowest projected values;

(c) a statement that the projected growth rates of return are for illustration purposes only and a warning that the projected growth rates are not minimum or maximum values but have only been selected to portray different scenarios for illustration purposes only;

(d) a warning that the surrender value or maturity value will depend on the market values of the underlying assets;

(e) a warning that a fixed annual rate of return is being assumed for the projected growth rates and that such a fixed return does not reflect the returns of the underlying assets which may fluctuate in value.

Long term business: During the term of a contract

6. (1) This paragraph applies where an undertaking has entered into a contract where the commitment covered by the contract is a commitment where Malta is the country of commitment.

(2) If during the term of the contract there is –

(a) any change in the information mentioned in indents (a) to (f) of sub-paragraph (3) of paragraph 4 and paragraph 5 of these Guidelines; and

(b) an amendment to the law applicable to the contract,

the undertaking shall inform the other party to the contract in writing of the effect of the change.

(3) If the contract provides for the payment of bonuses, the undertaking shall, at least once in every calendar year, inform the other party to the contract in writing of the amount of any bonus-

(a) which has become payable under the contract; and

(b) of which that party has not been previously informed under this paragraph.

(4) There is a sufficient compliance with sub-paragraph (3) of this paragraph if the undertaking furnishes the other party to the contract with such information as will enable him to determine the amount of any such bonus as is mentioned in that paragraph, or if the undertaking informs that party of -

(a) the total value of the benefits (including bonuses) which have accrued under the contract; and

(b) the rates of bonus which have been declared since that party was previously informed under this paragraph.

(5) In this article “bonus” does not include a bonus the amount of which is specified in the contract.

General business: Before concluding a contract

7. (1) This paragraph applies to a contract to be entered into by an undertaking if the risk covered by the contract is a risk situated in Malta.

(2) Before entering into a contract to which this paragraph applies, the undertaking shall, if the other party (or one of the other parties) to the contract is an individual, inform that party -

(a) as to whether the parties to the contract are entitled to choose the law applicable to the contract and -

(i) if so, of the law which the undertaking proposes to choose; and

(ii) if not, of the law which will be so applicable;

(b) whether in the home Member State of the undertaking concerned there exists an insurance guarantee scheme which protects the policyholder in the event of the insolvency of the undertaking or any limited compensation which may be available under the Protection and Compensation Regulations, 2003;

(c) the arrangements for handling policyholders' complaints concerning contracts of insurance by the undertaking;

(d) the amount and purpose of any charge or fee in addition to the premium. The amount of document duty, if any, payable in terms of the Duty on Document and Transfers Act (Cap.364) is to be disclosed separately;

(e) the date of inception of the policy.

(3) Any relevant document issued by an undertaking in relation to a contract to which this paragraph applies shall state the name and address of the undertaking and the name and address of the branch.

(4) In this article "relevant document", in relation to a contract to which this article applies, means any proposal, policy or other document which, or statements contained in which, will or may bind the other party to the contract.

Proof of furnishing the required information

8. (1) Any disclosure required to be made by these Guidelines shall be communicated to the potential policyholder or policyholder -

(a) on paper or in some other durable medium that is accessible to such person; and

(b) in a clear and accurate manner, comprehensible to such person.

(2) For the purposes of sub-paragraph (1) of this paragraph, "durable medium" means any instrument which enables the potential policyholder or policyholder to store information addressed personally to such person in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored. In particular, durable medium covers floppy disks, CD-ROMs, DVDs and hard drives of personal computers on which electronic mail is stored, but it excludes Internet sites, unless such sites meet the criteria specified in this sub-paragraph.

(3) Notwithstanding the provisions of sub-paragraph (1)(a) of this paragraph, the undertaking shall verbally provide the information required by these Guidelines:

(a) whenever the potential policyholder or policyholder asks for the information; or

(b) whenever immediate cover is needed:

Provided that, in either case, the undertaking shall, immediately after the contract of insurance is entered into, comply with sub-paragraph (1) of this paragraph.

(4) No information given under this Rule shall be sufficient if the information given is accompanied by any oral or written statement which somehow negatives, qualifies or otherwise reduces its impact.

(5) The burden of proof that any information required to be furnished under these Guidelines has been furnished in accordance with the requirements of these Guidelines rests on the undertaking.