

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

NOTE FOR INFORMATION

Insurance Business (Assets and Liabilities) Regulations, 2007 **and Insurance Rule 1 of 2007 – Own Funds of Companies** **Carrying on Business of Insurance**

The Insurance Business (Assets and Liabilities) Regulations, 2007 (L.N. 286 of 2007) (“the Regulations”) and Insurance Rule 1 of 2007 – Own Funds of Companies Carrying on Business of Insurance will be amended later on this year to reflect the developments reported hereunder. The purpose of this Note is to provide information on the proposed amendments.

EU Insurance Directives (Solvency I)

Background

The provisions of Article 30 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (“the EU Life Directive”) and Article 17a of Directive 73/239/EEC of 24 July 1973 on the coordination of the laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance, as amended by Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 as regards the solvency margin requirements for non-life insurance undertakings (“the EU Non-Life Directive”) are transposed in the Regulations.

The above-mentioned EU Directives determine that:

1. the amount in euro of the minimum guarantee fund in respect of direct life and non-life insurance undertakings; and
2. the amount in euro of the premium and claims index figures in respect of non-life insurance undertakings,

in both cases are to *be reviewed annually starting 20 September 2003, in order to take account of changes in the European index of consumer prices (“EICP”) comprising all Member States as published by Eurostat. The amount shall be adapted automatically, by increasing the base amount in euro by the percentage change in that index over the period between the entry into force of [the Directives] and the review date and rounded up to a multiple of EUR 100,000. If the percentage change since the last adaptation is less than 5%, no adaptation shall take place.* (Article 30 of the EU Life Directive and Article 17a of the EU Non-Life Directive refer).

Review period from 20 March 2008 to 20 March 2011

Following the previous reviews that took place in 2005 and 2009, the Commission has conducted another review of the minimum guarantee fund (life and non-life) and the premium and claims indices (non-life) and concluded that the EICP has increased by 6.59% (from 107.6 to 114.69) during the review period (20 March 2008 – 20 March 2011) and consequently amendments are required (6.59% > 5.0%).

Article 30 of Directive 2002/83/EC and Article 17a of Directive 73/239/EEC as amended by Directive 2002/13/EC require that the base amount shall be increased by the percentage change in the EICP index over the period between 20 March 2002 and the review date (i.e. 20 March 2011) and shall be rounded up to a multiple of €100,000. The review concluded that the EICP had increased by 22.47% (from 93.65 to 114.69, May 2005=100) during the review period (20 March 2002 – 20 March 2011). This information was published in the Official Journal of the European Union on the 15th December 2011 (*Vide attachment 1*).

A 22.47% increase, rounding up to the nearest €100,000, is translated into:

- a revised (lower) Minimum Guarantee Fund of €2.5 million for companies carrying on general business where the business of insurance is restricted to classes 1 to 9, 16 to 18 and a revised higher Minimum Guarantee Fund of €3.7 million for all other classes of general business and companies carrying on long term business as opposed to the current base amounts of €2.3 million and €3.5 million; and
- a revised premium index of €61.3 million and a revised claims index of €42.9 million instead of the current base amount of € 57.5 million and € 40.3 million.

Reinsurance Directive

Review period from 10 December 2007 to 10 December 2010

The Commission conducted a review which concluded that the EICP had increased by 6.49% (from 106.48 to 113.39, May 2005=100) during the review period (from 10 December 2007 to 10 December 2010) and consequently changes are required (6.49% >5.0%).

Article 41 of Directive 2005/68/EC requires that the base amount shall be increased by the percentage change in the EICP index over the period between 10 December 2005 and the review date (i.e. – 10 December 2010) and shall be rounded up to a multiple of €100,000. The review concludes that the EICP has increased by 12.23%. This information was published in the Official Journal of the European Union on the 15th December 2011 (*Vide attachment 2*).

A 12.23% increase, rounding up to the nearest €100,000, is translated into

- a revised reinsurance undertakings' Minimum Guarantee Fund of €3.4 million;
and
- a revised captive reinsurance undertakings' Minimum Guarantee Fund of €1.2 million.

Amendments

As a consequence of the above, the Second, Third and Fourth Schedules to the Regulations will be amended to reflect the changes introduced by the Review Exercise.

The Schedule to Insurance Rule 1 of 2007 – Own Funds of Companies Carrying on Business of Insurance will also be amended in order to reflect the increases in the minimum guarantee fund referred to above.

These amendments will come into force on **31st December 2012**.

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