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| MALTA FINANCIAL SERVICES AUTHORITY |
| **Authorisation Forms - Annex** |
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| **Annex AX20: Passporting Notification for Freedom of Establishment** |
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| **High Level Guidelines** |
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| 1. General   This form, **Annex AX20:** **Passporting Notification for** **Freedom of Establishment** (‘Annex’), shall be duly filled in by persons who are either currently seeking to obtain authorisation from the MFSA to carry out business of insurance or reinsurance, or by an Insurance Undertaking authorised by the MFSA and whose part (or all) of its activities will be based on the Freedom of Establishment in another Member State. **A separate Annex should be completed for every country the applicant intends to passport.**  Where an Authorisation Application is being submitted this Annex shall be filed as part of and in conjunction with the relevant Authorisation Application Form, as indicated therein. Where an MFSA authorisation to carry out business of insurance or reinsurance has already been issued, the respective Authorised Person shall submit this Annex prior to exercising its passporting rights under the Freedom of Services in accordance with the applicable rules.  In this respect, the Applicant shall to the best of its knowledge, provide information, which is truthful, accurate and complete. The Applicant shall notify the MFSA immediately if the information provided changes in any material respect either prior to or subsequent to authorisation.  The Applicant is required to make reference, and where applicable comply with, the relevant Act, the Regulations made, or Rules issued thereunder during the completion of the Application. The Applicant shall also refer to the respective National and/or European Regulatory Frameworks or other binding regulation as may be applicable.  The Applicant shall not tamper with, or modify in any manner, this Annex or its respective Application. Should it transpire that the documents were tampered with, or modified in any manner, the Authority shall consider the submission to be invalid. Any potential improvements should be communicated to the MFSA for consideration.  The Authority may at its sole discretion request from the Applicant further information/ documentation.   1. Definitions   Unless otherwise specified, terms used in this Annex shall have the same meaning assigned to them within the MFSA Authorisation Form AA12.  For the purposes of this Annex the following shall mean:   |  |  |  |  | | --- | --- | --- | --- | |  |  |  | | | **Applicant** | | any person who is authorised or applying to obtain authorisation under Article 7 of the Act | | **Authorised Person** | | any person who is authorised by the MFSA under Article 7 of the Act |  1. Instructions   In order for this Annex to be considered complete, the Applicant is required to complete all the respective sections under this Annex. It is noted that the information provided should reflect the Applicant’s structure and method of operations at time of authorisation or as communicated and approved by the Authority following Authorisation.   1. Privacy Notice   The MFSA ensures that any processing of personal data is conducted in accordance with Regulation (EU) 2016/679 (General Data Protection Regulation), the Data Protection Act (Chapter 586 of the Laws of Malta) and any other relevant European Union and national law. For further details, you may refer to the MFSA Privacy Notice available on the MFSA webpage <https://www.mfsa.mt/privacy-notice/>. |

| 1. Applicant Details | | |
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|  | **Applicant – Identification Details** | |
|  | Registered Name  *(if not yet Formed, provide proposed name)* | Enter text |
|  | Registered Number (*if applicable)* | Enter text |
|  | LEI Code  (*if applicable)* | Enter text |

| 1. Passporting Notification Details | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Passporting Notification** | | | | | | |
|  | **Country** | | | | | | |
|  | Identify the Host Member State, where the Applicant intends to operate on a cross border business under Freedom of Establishment | | | | | Select item | |
|  | **Activities** | | | | | | |
|  | Provide the classes of insurance according to Annexes I and II to the Solvency II Directive and/or the type of reinsurance activity, according to Article 15(5) of the Solvency II Directive which the Applicant is applying for authorisation and intends to Passport | | | | | | |
|  | * 1. Indicate the classes of long-term business which the Applicant proposes to Passport   *Select* ***I*** *for Business of Insurance,* ***R*** *for Business of Reinsurance, and* ***C*** *for Combined Business.* | | | | | | |
|  | |  |  | | --- | --- | | **Long-Term Business Classes** | | | 1. Life and annuity | - | | 1. Marriage and birth | - | | 1. Linked long term | - | | 1. Permanent health | - | | 1. Tontines | - | | 1. Capital redemption | - | | 1. Pension fund management | - | | 1. Collective insurance | - | | 1. Social insurance | - | | | | | | | |
|  | * 1. Indicate the groups of classes of general business which the Applicant proposes to Passport   *Select* ***I*** *for Business of Insurance,* ***R*** *for Business of Reinsurance, and* ***C*** *for Combined Business.* | | | | | | |
|  | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | **General business and**  **Groups of Classes** | **Classes (I / R / C)** | | | | | | | | | | | | | | | | | | | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** | **12** | **13** | **14** | **15** | **16** | **17** | **18** | | 1. Accident and health  *(classes 1 and 2)* | - | - |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | 1. Motor  *(classes 1(d), 3, 7 and 10)* | - |  | - |  |  |  | - |  |  | - |  |  |  |  |  |  |  |  | | 1. Marine and transport  *(classes 1(d), 4, 6, 7 and 12)* | - |  |  | - |  | - | - |  |  |  |  | - |  |  |  |  |  |  | | 1. Aviation  *(classes 1(d), 5, 7 and 11)* | - |  |  |  | - |  | - |  |  |  | - |  |  |  |  |  |  |  | | 1. Fire and other damage to property  *(classes 8 and 9)* |  |  |  |  |  |  |  | - | - |  |  |  |  |  |  |  |  |  | | 1. Liability  *(classes 10, 11, 12 and 13)* |  |  |  |  |  |  |  |  |  | - | - | - | - |  |  |  |  |  | | 1. Credit and suretyship  (*classes 14 and 15)* |  |  |  |  |  |  |  |  |  |  |  |  |  | - | - |  |  |  | | 1. General  *(all classes)* | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | | | | | | | |
|  | **Passporting Setup** | | | | | | |
|  | **Branch Details** | | | | | | |
|  | |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | * 1. Branch | | | | | | | | *Branch Address* | | | | | | | Number/Name | Enter text | Street/Road | | Enter text | | | City/Town/Village | Enter text | Post Code | | Enter text | | | *Branch Contact Details* | | | | | | | Branch Email Address | Enter text | | Branch Telephone Number | | Enter text | | *Branch Manager / General Representative* | | | | | | | Title | Select item | | | | | | Name | Enter text | Surname | | Enter text | | | MFSA PQ Code | Enter text | | | | | | Business Email Address | Enter text | Business Direct Number | | Enter text | | | *The branch manager / general representative who must possess sufficient powers to bind the Applicant in relation to third parties and represent it in relations with the authorities and courts of the Member State or EEA State of the branch* | | | | | | | **Attachment | Copy of the Appointment of the Branch Manager / General Representative (power of attorney)**  *Note – A Personal Questionnaire in relation to the appointment of the Branch Manager / General Representative is to be submitted together with this Annex.* | | | | | | | *Branch Operational Details* | | | | | | | Estimated number of months after Authorisation to open the branch  (*Only applicable if this Annex is submitted together with an MFSA Authorisation Application*) | Enter text | | | | | | Describe the organisational structure identifying the persons who will effectively run and be responsible of the key function/s within the branch | Enter text | | | | | | **Attachment | Organigram of the Branch** | | | | | | | **Attachment | Copy of draft Agreements the Applicant will be entering into in respect of the branch operations** | | | | | | |  | | | | | | |   *(Add multiple as applicable)* | | | | | | |
|  | **Governance and Operations** | | | | | | |
|  | Where applicable, describe the relevant policyholder guarantee funds in the Home Member State | | | | | | |
|  | Enter text | | | | | | |
|  | Provide details about the nature of the risks or commitments which the Applicant proposes to cover in the Host Member State  *Note - For the purposes of this questions, the provided information shall identify the specific risks or commitments in relation to this passporting intention as opposed to generic references to the whole business operation.* | | | | | | |
|  | Enter text | | | | | | |
|  | Provide a summary of the Applicant’s system of governance, including the risk management system in place | | | | | | |
|  | Enter text | | | | | | |
|  | Provide a summary of the arrangements by which systems and controls will be established and maintained in the head office of the Applicant in Malta to oversee and monitor the branch’s operations, setting out (but not limited to) the details of the controls over underwriting, claims and IT | | | | | | |
|  | Enter text | | | | | | |
|  | Provide a description as to how the Passporting activities fits into the Applicant’s strategy | | | | | | |
|  | Enter text | | | | | | |
|  | Does the Applicant intend to engage Lloyd’s underwriters who possess sufficient powers to bind the Applicant in relation to third parties and represent it in relations with the authorities and courts of the Member State or EEA State of the branch? | | | | | Select item | |
|  | 1. If ‘*Yes’*: Identify the Underwriting Agent/s | | | | | | |
|  | |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  | | --- | --- | | * 1. Lloyd’s Underwriter | | | Name of Entity | Enter text | | Registration number  *(if applicable)* | Enter text | | Email address | Enter text | |  | | |   *(Add multiple as applicable)* | | | | | | |
|  | If the Applicant intends to cover risks in Class 10 in Part A of Annex I to the Solvency II Directive excluding carrier’s liability, provide the below information: | | | | | | |
|  | * 1. Will the Applicant act as a claims representative as referred to in Article 18(1)(h) of the Solvency II Directive? | | | | | Select item | |
|  | * 1. Will the Applicant engage other parties to act as claims representatives as referred to in Article 18(1)(h) of the Solvency II Directive? | | | | | Select item | |
|  | If ‘*Yes*’: Identify the representative/s | | | | | | |
|  | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  | | --- | --- | --- | --- | | * 1. Claims Representative | | | | | Name of Claims Representative Entity | Enter text | | | | Registration number  *(if applicable)* | Enter text | | | | *Address* | | | | | Number/Name | Enter text | Street/Road | Enter text | | City/Town/Village | Enter text | Region/State  *(if applicable)* | Enter text | | Post Code | Enter text | Country | Select item | |  | | | | |   *(Add multiple as applicable)* | | | | | | |
|  | * 1. Does the Applicant declare that that it has become a member of the National Bureau and National Guarantee Fund of the Host Member State? | | | | Select item | | |
|  | If the Applicant intends to cover risks relating to Legal expenses insurance, specify the option chosen from those described in Article 200 Solvency II Directive: | | | | | | |
|  | Option (a)  An authorised insurance undertaking shall ensure that no member of staff who is concerned with the management of claims under legal expenses insurance contracts, or with legal advice in respect of such claims, carries on at the same time any similar activity:  (i) in relation to another class of general insurance business carried on by the undertaking; or  (ii) in any other undertaking having financial, commercial or administrative links with the first undertaking, which carries on one or more other classes of general business;  Option (b)  An authorised insurance undertaking shall entrust the management of claims under legal expenses insurance contracts to an undertaking having separate legal personality which shall be mentioned in the separate section as referred to in paragraphs 11.2.5 of Chapter 11 of the Insurance Business Rules:  Provided that, where the undertaking having separate legal personality has links to another authorised insurance undertaking which carries on one or more other classes of general business, specified in Part 1 of the Third Schedule to the Act, members of the staff of the undertaking having separate legal personality who are concerned with the management of claims, or with providing legal advice connected with such management of claims or with legal advice connected with such management, shall not carry on the same or similar activity in that other insurance undertaking at the same time;  Option (c)  The authorised insurance undertaking shall, in the policy, provide the insured the right to entrust the defence of his interests, from the moment that he has the right to claim from the insurance undertaking under the policy, to a lawyer of his choice or, to the extent that the law of the relevant forum so permits, to any other appropriately qualified person. | | | | | Select item | |
|  | Does the Applicant intend to cover risks classified in Class 18 of Part A of Annex I to the Solvency II Directive? | | | | | Select item | |
|  | If ‘*Yes’*: provide details on the company taking over assistance services or the resources available to the insurance undertaking to provide the promised assistance | | | | | | |
|  | Enter text | | | | | | |
|  | **Distribution Channels** | | | | | | |
|  | Does the Applicant intend to make use of outsourcing contracts and partners that will be used in the Host Member State? | | | | | Select item | |
|  | If ‘*No’*: proceed to the following sub-section  If ‘*Yes’*: provide the below details | | | | | | |
|  | * 1. Provide details on the Outsourcing Service Providers and Partners | | | | | | |
|  | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | * 1. Outsourcing Service Providers and Partners | | | | | | | Registered Name | Enter text | Registered Number | Enter text | | Name of Regulatory Body | Select item | If ‘*Other*’:  Name of Regulatory Body | Enter text | | *Address* | | | | | Number/Name | Enter text | Street/Road | Enter text | | City/Town/Village | Enter text | Region/State  *(if applicable)* | Enter text | | Post Code | Enter text | Country | Select item | | **Attachment | Draft** **Outsourcing Contract** | | | | |  | | | | | | |   *(Add multiple as applicable)* | | | | | | |
|  | **Prudential** | | | | | | |
|  | **Reinsurance / Retrocessionaire** | | | | | | |
|  | Does the Applicant intend to undertake Reinsurance / Retrocessionaire? | | | | | Select item | |
|  | If ‘*No’*: proceed to the following sub-section  If ‘*Yes’*: provide the following details | | | | | | |
|  | * 1. Provide the guiding principles as to reinsurance and to retrocession with respect to the branch operations, including the Applicant’s maximum retention per risk or event after all reinsurance / retrocession ceded | | | | | | |
|  | Enter text | | | | | | |
|  | * 1. Provide details of the principal Reinsurance / Retrocessionaire of the business carried by the branch concerned | | | | | | |
|  | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | * 1. Reinsurance / Retrocessionaire | | | | | | | Registered Name | Enter text | Registered Number | Enter text | | Name of Regulatory Body | Select item | If ‘*Other*’:  Name of Regulatory Body | Enter text | | Business Type | Select item | | | | *Address* | | | | | Number/Name | Enter text | Street/Road | Enter text | | City/Town/Village | Enter text | Region/State  *(if applicable)* | Enter text | | Post Code | Enter text | Country | Select item | |  | | | | | |   *(Add multiple as applicable)* | | | | | | |
|  | **Financial Projections** | | | | | | |
|  | Provide the cost estimates for setting up the administrative services and organisation for securing business for the branch | | | | | Enter text | |
|  | Provide the Financial Resources set aside for the purposes of question 2.3.2.1 | | | | | Enter text | |
|  | Provide the below estimates for the first three financial years | | | | | | |
|  | |  |  |  |  |  | | --- | --- | --- | --- | --- | |  |  | Year 1 | Year 2 | Year 3 | |  | Management expenses, in particular general expenses and commissions (excluding installation costs) | Enter text | Enter text | Enter text | |  | Premiums or contributions and claims | Enter text | Enter text | Enter text | |  | Projected loss ratio of the portfolio | Enter text % | Enter text % | Enter text % | |  | Other projected technical indicators (*if available*) | Enter text | Enter text | Enter text | | | | | | | |
|  | **Attachment | Forecast Balance Sheet for the first three years** | | | | | | |
|  | **Attachment | Estimates and Calculations of the Solvency Capital Requirement for the first three years**  These are to be on the basis of the forecast Balance Sheet and calculated in line with paragraphs 5.5.1 to 5.5.12 of Chapter 5 in Part B of the Insurance Business Rules. | | | | | | |
|  | **Attachment | Estimates and Calculations of the Minimum Capital Requirement for the first three years**  These are to be on the basis of the forecast Balance Sheet and calculated in line with Section 5.6 of Chapter 5 in Part B of the Insurance Business Rules. | | | | | | |
|  | **Attachment | Estimates of the Financial Resources for the first three years to cover: [1] technical provisions; [2] Minimum Capital Requirement; and [3] Solvency Capital Requirement** | | | | | | |
|  | Does the Applicant hereby confirm that it shall continue to satisfy the Solvency Capital Requirements and the Minimum Capital Requirement, in accordance with articles 15 and 17 of the Act, respectively? | | | | Select item | | |
|  | **Applicants intending to carry out long term business in an EU/EEA State** | | | | | | |
|  | **Attachment | 3-Scenario Income and Expenditure Forecasts for the first three years**  Provide a plan setting out detailed – [1] Base; [2] Optimistic; [3] Pessimistic – estimates scenarios of the Income and Expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions. | | | | | | |
|  | *This Attachment should include:*   * 1. the number of contracts or treaties expected to be issued;   2. the total sums assured or the total amounts of annuity per annum; and   3. the total premium income, both gross and net of reinsurance ceded. | | | | | | |
|  | **Information relating to Authorised Persons**  *Note the following is to be completed only where this application is being submitted by an MFSA Authorized Person to carry*  *out business of insurance or reinsurance.* | | | | | | |
|  | **Authorised Persons belonging to a cross-border group** | | | | | | |
|  | Name of group Supervisor | Select item |  | If ‘*Other*’: Name of group Supervisor | | | Enter text |
|  | Last reported group solvency position (ratio) | Enter text % | | | | | |
|  | **Attachment | Group Structure Diagram** | | | | | | |

| 1. Attachments Checklist |
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| Please fill in the below checklist and ensure that all necessary documentation is attached and submitted together with this Annex. |
| |  |  |  | | --- | --- | --- | |  | 3-Scenario Income and Expenditure Forecasts for the first three years | Select item | |  | Copy of draft Agreements the Applicant will be entering into in respect of the branch operations | Enter number of submissions | |  | Copy of the Appointment of the Branch Manager / General Representative (power of attorney) | Enter number of submissions | |  | Draft Outsourcing Contracts | Enter number of submissions | |  | Estimates and Calculations of the Minimum Capital Requirement for the first three years | Select item | |  | Estimates and Calculations of the Solvency Capital Requirement for the first three years | Select item | |  | Estimates of the Financial resources for the first three years to cover: [1] technical provisions; [2] Minimum Capital Requirement; and [3] Solvency Capital Requirement | Select item | |  | Forecast Balance Sheet for the first three years | Select item | |  | Group Structure Diagram\* | Select item | |  | MFSA Annex – AX02 | Enter number of submissions | |  | Organigram of the Branch | Enter number of submissions | |  | Personal Questionnaire of the proposed Branch Manager / General Representative | Enter number of submissions | |

\* Only applicable to Authorised Persons

| 1. Declaration Form   *Note - Not applicable when submitted with an Authorisation Application Form* | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Declaration** | | | | | |
|  | The undersigned, on behalf of the Authorised Person, declares that the information given in answer to the questions within this Annex; AX20, is complete and accurate to the best of their knowledge. | | | | | |
| Signature | |  |  | | |
| Name | | Enter text | | Surname | Enter text |
| Position | | Enter text | | |
| Authorised Person  ID | | Enter text | | |
| Date | | Enter date |