

SUBSIDIARY LEGISLATION 386.16
SECURITISATION CELL COMPANIES
REGULATIONS

28th November, 2014

LEGAL NOTICE 411 of 2014.

PART I
GENERAL

1. The title of these regulations is the Securitisation Cell Companies Regulations, 2014. Citation.
2. (1) In these regulations, unless the context otherwise requires - Interpretation.
- "the Act" means the Companies Act; Cap. 386.
- "ceding undertaking" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations; S.L. 403.19
- "cell" means a cell created by a cell company for the purpose of segregating and protecting the cellular assets of the company in the manner provided by these regulations and includes a reference to segregated accounts, compartments or units within a company having multiple accounts, compartments or units, by whatever name designated, and the word "cellular" shall be interpreted and applied accordingly;
- "cellular assets" of a cell company means the assets of the company attributable to any cell of the company as prescribed in these regulations;
- "cell company" is a company formed or constituted as such or, in the case of regulation 21 converted into a cell company, and creating within itself one or more cells to segregate and protect the cellular assets of the company in accordance with the provisions of these regulations;
- "the competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.
- "financial instruments" has the same meaning assigned to it by the Financial Markets Act; Cap. 345.
- "Financial Services Tribunal" means the Tribunal established under article 21 of the Malta Financial Services Authority Act; Cap. 330.
- "group" has the same meaning as assigned to it in the Reinsurance Special Purpose Vehicles Regulations; S.L. 403.19
- "non-cellular assets" of a cell company means the assets of the company which are not cellular assets;
- "public securitisation vehicle" means a vehicle as referred to in article 19 of the Securitisation Act; Cap. 484.
- "Registrar of Companies" means the Registrar appointed in terms

- of article 400 of the Act;
- S.L. 403.19 "reinsurance special purpose vehicle" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations;
- "securitisation cell company" is a cell company which enters into transactions as referred to in regulation 4;
- Cap. 484. "securitisation vehicle" means a vehicle as referred to in article 3(1)(a) of the Securitisation Act.
- (2) Words and expressions used in these regulations which are also used in the Act, but which are not defined herein, shall in these regulations have the same meaning as in the Act.
- Applicability of the Act. **3.** (1) The Act shall, subject to the provisions of these regulations, and unless the context otherwise requires, apply to a securitisation cell company.
- (2) In so far as the provisions of the Act are inconsistent with the provisions of these regulations or of any other legislation applicable in terms of these regulations, the provisions of these regulations and of any such legislation shall prevail and the provisions of the Act shall, to the extent of the inconsistency, not apply to a securitisation cell company.
- Securitisation cell companies. **4.** (1) A securitisation cell company shall be established solely for the purpose of either:
- (a) entering into securitisation transactions, other than the assumption of risks as specified in paragraph (b), in accordance with Part II of these regulations; or
 - (b) assuming risks as a reinsurance special purpose vehicle from a ceding undertaking through reinsurance contracts, or assuming insurance risks through similar arrangements, in accordance with Part III of these regulations.
- (2) A securitisation cell company may not carry on any trade or business, other than that relating or ancillary to a transaction as referred to in sub-regulation (1).
- (3) Notwithstanding that a securitisation cell company may have created one or more cells:
- (a) a securitisation cell company is a single legal person; and
 - (b) the creation by a securitisation cell company of a cell does not create, in respect of that cell, a legal person separate from the securitisation cell company.
- (4) The assets and liabilities of each cell comprised in a securitisation cell company shall, for all intents and purposes of law, be treated as a patrimony separate from the assets and liabilities of each other cell of the securitisation cell company, and from the assets and liabilities of the securitisation cell company itself.

5. (1) Without prejudice to the provisions of the Act, the name of a securitisation cell company shall, include the expression "Securitisation Cell Company" or "SCC" immediately before the word "limited" or its abbreviation "ltd." or the words "public limited company" or their abbreviation "p.l.c." as applicable. Name of securitisation cell company.
- (2) A company shall not be deemed to be a securitisation cell company until it has complied with the provisions of this regulation.
- (3) Without prejudice to article 6 of the Act, a securitisation cell company shall also indicate in a suitable manner in all its business letters and forms that it is a securitisation cell company.
- (4) A securitisation cell company shall state that it is a securitisation cell company in its memorandum of association, in the manner provided in these regulations.
6. (1) Without prejudice to regulations 22, 24 and 32, a securitisation cell company may only create cells by means of a resolution of the board of directors of the securitisation cell company to create a new cell for the purpose of entering into transactions referred to in regulation 4(1). Creation of cells.
- (2) Each cell of a securitisation cell company shall have its own distinct name or designation which shall include the word "cell".
7. (1) Without prejudice to regulation 4(4), the assets of a securitisation cell company shall be either cellular assets or non-cellular assets. Cellular and non-cellular assets.
- (2) It shall be the duty of the directors of a securitisation cell company to keep:
- (a) cellular assets separate and separately identifiable from non-cellular assets;
 - (b) cellular assets attributable to each cell separate and separately identifiable from cellular assets attributable to other cells; and
 - (c) separate records, accounts, statements and other documents as may be necessary to evidence the assets and liabilities of each cell as distinct and separate from the assets and liabilities of other cells in the same company, and as distinct and separate from the non-cellular assets and liabilities of the securitisation cell company.
- (3) The cellular assets of a securitisation cell company mean the assets of the company attributable to the cells of the company.
- (4) The non-cellular assets of a securitisation cell company mean the assets of the company which are not cellular assets.
8. (1) A securitisation cell company may, in respect of any of its cells, create and issue shares ("cell shares") the proceeds of the issue of which ("cell share capital") shall be comprised in the cellular assets attributable to the cell in respect of which the cell Cell shares and share capital.

shares were issued.

(2) The proceeds of the issue of shares, other than cell shares created and issued by a securitisation cell company, shall be comprised in the non-cellular assets of the company.

(3) A securitisation cell company may pay a dividend (a "cellular dividend") in respect of cell shares.

(4) Cellular dividends may be paid in respect of cell shares by reference only to the cellular assets and liabilities, or the profits attributable to the cell in respect of which the cell shares were issued; and accordingly, in determining whether or not profits are available for the purposes of paying a cellular dividend, no account shall be taken of -

- (a) the profits and losses, or the assets and liabilities, attributable to any other cell of the company; or
- (b) non-cellular profits and losses, or non-cellular assets and liabilities.

(5) Unless the context otherwise requires, references to shares in the Act include references to cell shares.

Company to inform persons that they are dealing with a securitisation cell company.

9. A securitisation cell company shall:

- (a) inform, in writing, any person with whom it transacts its business that it is a securitisation cell company; and
- (b) for the purposes of that transaction, identify or specify the cell in respect of which that person is transacting, unless that transaction is not a transaction in respect of a particular cell.

Segregation of cellular assets.

10. (1) In every transaction entered into by a securitisation cell company, there shall be implied the following terms, namely that -

- (a) no party shall seek, whether in any proceedings or by any other means whatsoever, to make or attempt to use any cellular assets attributable to any cell of the company to satisfy a liability not attributable to that cell; and
- (b) if any party succeeds by any means whatsoever in using any cellular assets attributable to any cell of the company to satisfy a liability not attributable to that cell, that party shall be liable to the securitisation cell company to pay a sum equal to the value of the benefit thereby obtained by him.

(2) Any asset or sum recovered by a securitisation cell company under the implied term set out in sub-regulation (1)(b) or by any other means whatsoever in the events referred to in that paragraph shall, after the deduction or payment of any costs of recovery, be applied by the company so as to compensate the cell affected.

(3) In the event of an executive warrant being issued or enforced on a securitisation cell company in respect of any cellular

assets attributable to a cell and in respect of a liability not attributable to that cell, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to the cell affected, the company shall -

- (a) cause or procure its auditor, acting as expert and not as arbitrator, to certify the value of the assets lost by the cell affected; and
- (b) transfer or pay to the cell affected, from the cellular or non-cellular assets to which the liability was attributable, assets or sums sufficient to restore to the cell affected the value of the assets lost.

11. Cellular assets attributable to a cell of a securitisation cell company shall - Position of creditors.

- (a) only be available to the creditors of the company who are creditors in respect of that cell and who are thereby entitled, in conformity with these regulations, to have recourse to the cellular assets attributable to that cell;
- (b) be absolutely protected from the creditors of the company who are not creditors in respect of that cell and who accordingly are not entitled to have recourse to the cellular assets attributable to that cell.

12. (1) Where any liability arises which is attributable to a particular cell of a securitisation cell company - Liability of cellular assets.

- (a) only the cellular assets attributable to that cell shall be used to satisfy the liability; and
- (b) any cellular assets not attributable to the relevant cell shall not be used to satisfy the liability.

(2) Any liability not attributable to a particular cell of a securitisation cell company shall be the liability solely of the company's non-cellular assets, provided that apportionments may be made out of the assets attributable to the individual cells towards the costs of the day-to-day administration of the securitisation cell company.

13. (1) A securitisation cell company may, in respect of any of its cells, issue financial instruments in one or more tranches, the proceeds of the issue of which shall be comprised in the cellular assets attributable to the cell in respect of which the financial instruments were issued. Issue of financial instruments.

(2) When a securitisation cell company issues financial instruments in respect of any of its cells, the offering document or prospectus and any other documentation relating to the issue of the financial instruments shall identify the cell in respect of which the financial instruments are issued.

(3) Financial instruments issued in respect of a cell may be denominated in different currencies.

14. (1) The directors of a securitisation cell company may choose the base currency of a cell which may be different from the Base currency of cell.

currency of the non-cellular share capital.

(2) Where no choice is made in accordance with sub-regulation (1), the base currency of a cell shall be the currency of the non-cellular share capital of the securitisation cell company.

Accounts.

15. (1) A securitisation cell company shall draw up its annual accounts in either the currency of its non-cellular share capital or the base currency of one of its cells.

(2) The directors of a securitisation cell company shall maintain proper accounting records of the assets and liabilities of each cell in the base currency of that cell.

(3) The provisions of sub-regulation (1) shall *mutatis mutandis* apply to the drawing up of any other reports or financial statements which may be required under the Act or by the competent authority.

(4) For the purposes of sub-regulations (1) and (3), the conversion from the base currency of a cell or the conversion from the currency of the non-cellular share capital into the currency in which the annual accounts of the securitisation cell company are to be drawn up shall be done in accordance with generally accepted accounting principles and practice.

Appeals.

16. (1) Any person who is aggrieved by a decision of the competent authority -

- (a) to refuse to issue an approval to a securitisation cell company carrying on the business of a public securitisation vehicle to create one or more cells, under regulation 24(1); or
- (b) to withdraw an approval granted to a securitisation cell company carrying on the business of a public securitisation vehicle to create one or more cells, under regulation 24(3); or
- (c) to refuse to issue an approval to a securitisation cell company carrying on business as a reinsurance special purpose vehicle to create one or more cells under regulation 32(2); or
- (d) to withdraw an approval granted to a securitisation cell company carrying on business as a reinsurance special purpose vehicle to create one or more cells under regulation 32(5),

may appeal against the decision to the Financial Services Tribunal which shall have exclusive competence to hear appeals on the matters listed in this regulation.

Cap. 330.

(2) The provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Financial Services Tribunal under this regulation:

Provided that for the purposes of proceedings arising in relation to sub-regulation (1)(c) and (d), the members appointed under article 21(4) of the Malta Financial Services Authority Act shall be substituted by persons to be appointed in accordance with the proviso to article 57(1) of the Insurance Business Act.

Cap. 330.

Cap. 403.

17. (1) The competent authority may issue rules for the purposes of Part II or Part III of these regulations.

Power of the competent authority to issue rules.

(2) Such rules may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purposes of these regulations.

PART II

SECURITISATION CELL COMPANIES CARRYING ON BUSINESS OF SECURITISATION VEHICLES

18. The provisions of Part II shall apply to a securitisation cell company carrying on the business of a securitisation vehicle in accordance with the Securitisation Act, and any reference to a securitisation cell company within this Part shall be construed as a reference to a securitisation cell company carrying on exclusively the business of a securitisation vehicle in accordance with the Securitisation Act.

Application of Part II to securitisation cell companies carrying on business of a securitisation vehicle.
Cap. 484.

19. For the purposes of this Part, the following definitions shall apply:

Interpretation.

"Continuation Regulations" means the Companies Act (Continuation of Companies) Regulations; "court" means the Civil Court, First Hall;

S.L. 386.05.

"originator" has the same meaning assigned to it by the Securitisation Act;

Cap. 484.

"securitisation" has the same meaning assigned to it by the Securitisation Act;

Cap. 484.

"securitisation asset" has the same meaning assigned to it by the Securitisation Act;

Cap. 484.

"securitisation creditor" has the same meaning assigned to it by the Securitisation Act.

Cap. 484.

20. Without prejudice to the provisions of article 3(2) of the Securitisation Act, the memorandum or articles of association of a securitisation cell company shall state that:

Contents of the memorandum and articles of a securitisation cell company.
Cap. 484.

(a) the securitisation cell company may create cells for the purpose of entering into securitisation transactions; and

(b) the directors may, subject to the provisions of the Securitisation Act and these regulations, carry out all acts relating to the creation, operation and termination of cells in a securitisation cell company.

Cap. 484.

21. A securitisation vehicle formed and constituted as a limited liability company under the Act, or continued in Malta in terms of the Continuation Regulations, may be converted into a securitisation cell company, subject to the submission of a written

Conversions.

S.L. 386.05.

notification to the competent authority on the appropriate form accompanied by the following documentation:

- (a) a copy of the board resolution approving the conversion, and the extraordinary resolution amending the securitisation vehicle's memorandum and articles of association;
- (b) a copy of the letter sent to all the securitisation vehicle's securitisation creditors informing them of the intended conversion and allowing them a period of thirty days for the filing of any objections in court in accordance with sub-regulation (3);
- (c) a copy of the notice published in accordance with sub-regulation (2);
- (d) details of any representations received in reply to the letter mentioned at paragraph (b) or to the notice published in terms of sub-regulation (2); and
- (e) any other information or explanations that the competent authority may reasonably require.

(2) The notice required in terms of sub-regulation (1)(d) shall be addressed to the company's securitisation creditors, informing them of the intended conversion and allowing them thirty days for the filing of any objections in court in accordance with sub-regulation (3); and it shall be published by the company as follows:

- (a) in a daily newspaper circulating wholly or mainly in Malta; or
- (b) where it appears that the majority of the creditors reside outside Malta, in a daily newspaper circulating wholly or mainly in such other jurisdiction outside Malta; or
- (c) where there is doubt as to where the majority of the creditors reside, in a daily newspaper which has wide international circulation.

(3) If a creditor of the company whose debt existed prior to the issue of the letter or publication of the notice referred to in sub-regulation (1) objects to the conversion by application filed in court within the period of thirty days from the notification as aforesaid, and satisfies the court that due to the proposed conversion the satisfaction of his claims would be prejudiced and that no adequate safeguards have been obtained from the company, the court shall either uphold the objection or allow the conversion on sufficient security being given.

Notification of commencement of business of a cell. Cap. 484.

22. (1) Without prejudice to article 18 of the Securitisation Act, a securitisation cell company shall not commence business in respect of any cell unless it has given notice on the appropriate form to the competent authority that it intends to enter into one or more securitisation transactions in respect of that cell.

(2) A securitisation cell company shall deliver to the Registrar of Companies for registration a copy of the resolution to create a new cell referred to in regulation 6(1), within fourteen days from

the date of the said resolution.

23. A securitisation cell company which falls within the definition of a "public securitisation vehicle" in terms of article 19(1)(a) of the Securitisation Act as a result of the issuance of financial instruments to the public on a continuous basis in respect of one or more cells, shall comply with article 19 of the said Act in its entirety and with any directives issued thereunder.

Public
Securitisation Cell
Companies
approval
procedure.
Cap. 484.

24. (1) Cells of a securitisation cell company which falls within the definition of a "public securitisation vehicle" in terms of article 19(1)(a) of the Securitisation Act may only be created with the prior approval of the competent authority.

Approval of the
creation of a cell of
a public
securitisation cell
company.
Cap. 484.

(2) An application for the approval of a cell under sub-regulation (1) shall be made to the competent authority in such form and manner, and shall be accompanied by such documents and information verified in such manner, as the competent authority may, from time to time, determine.

(3) The competent authority may impose restrictions on an approval or may revoke an approval in any of the following circumstances:

- (a) if any document or information accompanying such an application for an approval or any information given in connection therewith is false in any material particular or if the holder of an approval conceals from, or fails to notify to, the competent authority any document or information or change therein which it was its duty to reveal or notify; or
- (b) if the holder fails to comply with any of the provisions of this Part or any rules issued hereunder or with the conditions under which the approval was granted; or
- (c) if the cell is likely to become insolvent.

(4) A public securitisation cell company shall deliver a copy of the approval of the creation of a cell to the Registrar of Companies for registration within fourteen days from the date of issue of the approval.

25. (1) A securitisation cell company may enter into one or more securitisation transactions in respect of a cell created within the securitisation cell company, provided that the securitisation assets allocated to a cell shall originate from the same originator.

Securitisation
transactions.

(2) A securitisation cell company may not enter into securitisation transactions in respect of the non-cellular assets of the cell company.

26. (1) Unless otherwise provided in any constitutive documents or agreement as referred to in article 22 of the Securitisation Act:

Winding up.
Cap. 484.

- (a) proceedings in relation to a securitisation cell company shall respect the status of each cell as a patrimony separate from the assets and liabilities of each other cell of the securitisation cell company and

the cell company itself in terms of these regulations;

(b) where a provisional administrator or liquidator is appointed under the Act, he shall:

(i) deal with the securitisation cell company's assets in accordance with the requirements of regulation 7(2); and

(ii) in discharge of the claims of creditors of the securitisation cell company, apply the securitisation cell company's assets to those entitled to have recourse thereto in accordance with these regulations;

(c) proceedings under the Act shall apply *mutatis mutandis* to a cell as though it were a distinct legal entity operating in terms of the Securitisation Act, and with such modifications as are necessary to accommodate the fact that the cell is not a company; and any proceedings in relation to one cell shall not have any effect on the assets of any other cell of the securitisation cell company or of the securitisation cell company itself.

Cap. 484.

(2) The term "proceedings" in this regulation refers to any proceedings in terms of Part V, Title II and Part VI of the Act.

Application of the
Securitisation Act.
Cap. 484.

27. (1) Save as otherwise provided by these regulations, the provisions of the Securitisation Act and any rules or regulations issued thereunder shall apply to a securitisation cell company and to each of its cells:

Cap. 484.

Provided that where any provisions of the Securitisation Act, or any rules or regulations made thereunder, are inconsistent with the provisions of these regulations, the provisions of these regulations shall prevail and the provisions of the Securitisation Act, or of any rules or regulations made thereunder shall, to the extent of the inconsistency, not apply to a securitisation cell company.

Cap. 484.

(2) For the purposes of this Part, any reference in the Securitisation Act to securitisation assets shall be deemed to be a reference to securitisation assets attributable to a particular cell of a securitisation cell company, and any rights and liabilities related thereto shall be construed accordingly.

Cap. 484.

(3) For the purposes of this Part, any reference in the Securitisation Act to securities shall be deemed to be a reference to securities linked to a particular cell of a securitisation cell company, and any rights and obligations related thereto shall be construed accordingly.

Cap. 484.

(4) Unless otherwise specifically determined in writing in the terms of issue of securities, the privilege granted under article 16 of the Securitisation Act shall only attach to securitisation assets attributable to the relevant financial instruments issued in respect of the relevant cell.

PART III

SECURITISATION CELL COMPANIES CARRYING ON BUSINESS AS REINSURANCE SPECIAL PURPOSE VEHICLES

- 28.** The provisions of Part III shall apply to a securitisation cell company carrying on business as a reinsurance special purpose vehicle in accordance with the Reinsurance Special Purpose Vehicles Regulations, and any reference to a securitisation cell company within this part shall be construed as a reference to a securitisation cell company carrying on exclusively business as a reinsurance special purpose vehicle in accordance with the Reinsurance Special Purpose Vehicles Regulations.
- Application of Part III to securitisation cell companies carrying on business as reinsurance special purpose vehicles.
S.L. 403.19
- 29.** For the purposes of this Part, "insurance rule" shall have the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations.
- Interpretation.
S.L. 403.19
- 30.** (1) A securitisation cell company may enter into one or more risk transfer arrangements in respect of a cell:
- Risk transfer arrangements.
- Provided that all risk transfer arrangements attributable to an individual cell shall originate from a single ceding undertaking or from ceding undertakings belonging to the same group:
- Provided further that all contractual arrangements relating to the transfer of risk from a ceding undertaking to the securitisation cell company and from the securitisation cell company to the providers of debt or financing shall clearly identify the cell to which the transfer of risk relates.
- (2) A securitisation cell company may not enter into risk transfer arrangements in respect of the non-cellular assets of the cell company.
- 31.** (1) A securitisation cell company may only carry on business as a reinsurance special purpose vehicle with the prior authorisation of the competent authority granted in terms of the Reinsurance Special Purpose Vehicles Regulations, subject to the provisions of this Part.
- Securitisation cell companies carrying on business as reinsurance special purpose vehicles.
S.L. 403.19
- (2) The competent authority may, from time to time, in such a manner as it deems appropriate:
- (a) vary or revoke any term or condition subject to which an authorisation under sub-regulation (1) was granted; and
- (b) impose any new term or condition in relation to any such authorisation.
- 32.** (1) The memorandum or articles of association of a securitisation cell company shall state that:
- Approval of a cell.
- (a) the securitisation cell company may create cells for the purpose of carrying out the activities of a reinsurance special purpose vehicle through such cells; and
- (b) the directors may, subject to the provisions of the Reinsurance Special Purpose Vehicles Regulations and Parts I and III of these regulations, carry out all acts relating to the creation, operation and termination of
- S.L. 403.19

cells in a securitisation cell company.

(2) A cell of a securitisation cell company may only be created with the prior approval of the competent authority.

(3) A securitisation cell company shall deliver a copy of the approval of the creation of a cell to the Registrar of Companies for registration within fourteen days from the date of issue of the approval by the competent authority.

(4) The competent authority may, from time to time, in such a manner as it deems appropriate:

- (a) vary or revoke any term or condition subject to which an approval under sub-regulation (2) was granted; and
- (b) impose any new term or condition in relation to any such approval.

(5) The competent authority may withdraw its approval in respect of any cell or cells of the securitisation cell company on the same grounds and on the same basis as referred to in regulation 13 of the Reinsurance Special Purpose Vehicles Regulations.

S.L. 403.19

Application for the creation of a cell.

33. An application for the creation of a new cell shall be made to the competent authority in such form and manner, and shall be accompanied by such documents and information verified in such manner as may be determined by an insurance rule.

Winding up.
S.L. 403.19

34. (1) Without prejudice to regulations 6(4) and 16(2)(f) of the Reinsurance Special Purpose Vehicles Regulations -

- (a) proceedings in relation to a securitisation cell company shall respect the status of each cell as a patrimony separate from the assets and liabilities of each other cell of the securitisation cell company and the cell company itself in terms of these regulations;
- (b) where a provisional administrator or liquidator is appointed under the Act, he shall:
 - (i) deal with the securitisation cell company's assets in accordance with the requirements of regulation 7(2); and
 - (ii) in discharge of the claims of creditors of the securitisation cell company, apply the securitisation cell company's assets to those entitled to have recourse thereto in accordance with these regulations;

S.L. 403.19

- (c) proceedings under the Act shall apply *mutatis mutandis* to a cell as though it were a distinct legal entity operating in terms of the Reinsurance Special Purpose Vehicles Regulations, and with such modifications as are necessary to accommodate the fact that the cell is not a company; and any proceedings in relation to one cell shall not have any effect on the assets of any other cell of the securitisation cell company or of the securitisation cell

company itself.

(2) The term "proceedings" in this regulation refers to any proceedings in terms of Part V, Title II and Part VI of the Act.

35. (1) Save as otherwise varied by this regulation, the provisions of the Reinsurance Special Purpose Vehicle Regulations and any insurance rules issued thereunder shall *mutatis mutandis* apply to a securitisation cell company carrying on the business of a reinsurance special purpose vehicle:

Application of the Reinsurance Special Purpose Vehicle Regulations. S.L. 403.19

Provided that where any provisions of the Reinsurance Special Purpose Vehicle Regulations, or any rules issued thereunder, are inconsistent with the provisions of these regulations, the provisions of these regulations shall prevail and the provisions of the Reinsurance Special Purpose Vehicle Regulations, or of any rules made thereunder shall, to the extent of the inconsistency, not apply to a securitisation cell company carrying on business as a reinsurance special purpose vehicle:

S.L. 403.19

Provided that the status of each cell as a patrimony separate from the assets and liabilities of each other cell and of the securitisation cell company shall be respected:

Provided further that a securitisation cell company set up in accordance with this Part may enter into contractual arrangements and risk transfer arrangements giving rise to rights and obligations in respect of a cell to the exclusion of other cells.

(2) The following provisions of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company in the manner provided hereunder:

S.L. 403.19

(a) regulation 3(2) of the Reinsurance Special Purpose Vehicles Regulations shall only apply to a securitisation cell company in respect of each of its cells individually, and a securitisation cell company as a whole can enter into multiple risk transfer arrangements with different ceding undertakings or with ceding undertakings belonging to different groups, provided that all risk transfer arrangements attributable to an individual cell shall originate from a single ceding undertaking or from ceding undertakings belonging to the same group;

S.L. 403.19

(b) regulation 4 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company as follows:

S.L. 403.19

(i) paragraphs (a), (b) and (c) thereof shall apply to a securitisation cell company as a whole;

(ii) paragraph (d) thereof shall apply in so far as the contractual arrangements to be entered into by a securitisation cell company in respect of any of its cells, and the investment in respect of such cell shall satisfy the conditions of regulation 6 of the Reinsurance Special Purpose Vehicle Regulations;

S.L. 403.19

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- S.L. 403.19 (iii) paragraph (e) shall be deemed to require the persons who effectively direct or manage the securitisation cell company to satisfy the requirements of regulation 7(2) of the Reinsurance Special Purpose Vehicle Regulations in respect of each and every cell as well as the securitisation cell company as a whole;
- (iv) paragraph (f) shall apply to a securitisation cell company as a whole with the additional requirement that the securitisation cell company shall also have the obligation to disclose the identity of holders of shares with a qualifying shareholding in any of its cells;
- (v) paragraphs (g) and, subject to paragraph (d) of this regulation, paragraph (h) shall apply to the securitisation cell company as a whole;
- (vi) paragraph (i) shall apply to the securitisation cell company as a whole and in respect of each of its cells individually;
- S.L. 403.19 (c) sub-regulations (3) and (4) of regulation 5 of the Reinsurance Special Purpose Vehicles Regulations shall be construed to read as follows:
- "Where an authorised securitisation cell company assumes additional or more than one risk under more than one risk transfer arrangement, whether from one or more ceding undertakings, the separate approval shall be sought from the competent authority in respect of each such arrangement.";
- S.L. 403.19 (d) regulation 6 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company in respect of each cell individually;
- S.L. 403.19 (e) regulation 9 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company with the added obligation that reports to be submitted to the competent authority shall clearly distinguish between the activities carried out in respect of each individual cell;
- S.L. 403.19 (f) regulations 10, 11 and 12 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company as a whole and on a cell by cell basis; and
- S.L. 403.19 (g) without prejudice to regulation 32(5) of these regulations, regulation 13 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company as a whole.
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