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MALTA FINANCIAL SERVICES AUTHORITY

Circular addressed to Enrolled Insurance Brokers/Agents/Managers

Professional Indemnity Insurance (PII)

In terms of article 10(1)(v) of the Act, one of the conditions of enrolment of a company is to have at all times in its favour a policy of professional indemnity insurance (“PII”). Such a policy has to conform with the Professional Indemnity Guidelines appended to Insurance Intermediaries Rule 12 of 2007 (“the Rule”).

The purpose of this circular letter is to clarify **certain** provisions of the Professional Indemnity Guidelines. As a compliance officer you are to ensure that upon renewal such a PII policy, amongst other requirements outlined in the Guidelines appended to the Rule, satisfies the following requirements:-

Loss of and damage to documents and records extension (Para. 3.2 (c) of the Guidelines)

The policy should indemnify the enrolled person against claims arising from any loss of and damage to documents and records the property of the enrolled person or which are in the person’s care, custody or control or for which the person is responsible. In accordance with the Rule the definition of “Documents” should also include documents and records stored on magnetic or electronic media and liability and costs and expenses incurred in replacing, restoring or reconstructing the documents or records and consequential loss resulting from the loss or damage to the documents or records.

The policy excess (Para. 3.4 of the Guidelines)

The PII policy is normally subject to an excess. In accordance with the said Guidelines such an excess should be for a sum not exceeding **0.5 per centum** of the limit of indemnity and subject to a maximum of €23,300. This percentage is to be applied to the limit of indemnity for each and every claim which is currently subject to a minimum level of €1,120,200. Therefore the lowest possible monetary amount for the excess is €5,601 and the highest possible excess is €23,300.

Bank Guarantee (Para 3.4.1 of the Guidelines)

Should the enrolled person fail to secure a PII policy that satisfies the requirements of para. 3.4, as described above, the enrolled person may, subject to approval by the Authority, take out a bank guarantee to cover the amount by which the excess under the PII policy exceeds the excess required by para. 3.4 of the Guidelines.

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Issued Share Capital (Para 3.4.2 of the Guidelines)

The enrolled person may, instead of taking out a bank guarantee, increase the issued share capital by a cash consideration equal to the amount by which the excess under the PII policy exceeds the required excess under para. 3.4 of the Guidelines.

Should you have any queries regarding the above, please do not hesitate to contact the **Insurance and Pensions Supervision Unit** email: ipsu@mfsa.com.mt

Insurance and Pensions Supervision Unit
14th October 2010

Issued by the Communications Unit
Malta Financial Services Authority