

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular on the Publication of New Insurance Distribution Rules addressed to authorised insurance and reinsurance undertakings and insurance and reinsurance intermediaries, carrying out insurance distribution activities or reinsurance distribution activities

1.0 Introduction

Reference is made to the [MFSA Consultation Document of the 16th March 2018](#) relating to new Insurance Distribution Rules on Knowledge and Ability and Continuous Professional Development in terms of the Insurance Distribution Directive. Reference is also made to the [MFSA Consultation Document of the 8th May 2018](#) in relation to new Insurance Distribution Rules on Ancillary Insurance Intermediaries in terms of the Insurance Distribution Directive. A feedback statement on the said Consultation Documents will be issued shortly.

In conjunction with this Circular, the MFSA is today publishing the Insurance Distribution Rules issued under the Insurance Distribution Act (Cap.487). These Insurance Distribution Rules will come into force on the **1st October 2018**.

2.0 Framework of Maltese Insurance Distribution Legislation transposing the Insurance Distribution Directive (Directive (EU) 2016/97)

The Insurance Distribution Rules issued under the Insurance Distribution Act (Cap.487) supplement the Insurance Distribution Act (as amended by [Act No. XXVI of 2018](#) entitled the Various Financial Services Laws (Amendment) Act, 2018, published on the 10th July 2018 in the Government Gazette No. 20,023). The following Legal Notices are to be published in the Government Gazette shortly:

1. Commencement Notice - VARIOUS FINANCIAL SERVICES LAWS (AMENDMENT) ACT, 2018 (ACT XXVI of 2018);
2. European Passport Rights for Intermediaries (Revocation) Regulations 2018;
3. Insurance Insurance Distribution (Exemption) Regulations, 2018;
4. European Passport Rights for Intermediaries Regulations, 2018;

5. Insurance Distribution (Penalties and other Measures) Regulations, 2018;
6. Insurance Intermediaries (Fees)(Amendment) Regulations, 2018;
7. Insurance Business (Penalties for Offences and Infringements) (Amendment) Regulations, 2018.

The main purpose of the new Insurance Distribution Rules being issued under the Insurance Distribution Act (Cap.487) is to transpose the remaining provisions of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), (the “Insurance Distribution Directive”). A number of current insurance intermediaries rules are being retained, aligned and updated as part of the transposition exercise of the Insurance Distribution Directive. Apart from the Insurance Distribution Rules issued for consultation, no substantive amendments have been introduced to the current insurance intermediaries rules.

The Insurance Distribution Rules being issued under the Insurance Distribution Act are consolidated in a single rulebook which is divided in two parts and consists of fifteen Chapters.

- **Part A** which is entitled Registration and Enrolment Requirements applicable under the Insurance Distribution Act is composed of four chapters and contains Insurance Distribution Rules relating to requirements for registration and enrolment of intermediaries.
- **Part B**, entitled Conditions for carrying out Insurance Distribution Activities and Reinsurance Distribution Activities is made up of eleven chapters and contains Insurance Distribution Rules in relation to the various requirements which an insurance intermediary, a reinsurance intermediary, a tied insurance intermediary, an ancillary insurance intermediary, an authorised insurance undertaking and an authorised reinsurance undertaking, carrying out insurance distribution activities and reinsurance distribution activities, are required to comply with on an on-going basis, as applicable.

As a consequence of the above, the various Insurance Intermediaries Rules which had been issued under the Insurance Intermediaries Act (Insurance Intermediaries Rule 1 to Insurance Intermediaries Rule 25) will be repealed with effect from the 1st October 2018.

The Insurance Distribution Rules shall be read in conjunction with the requirements of the Conduct of Business Rulebook which prescribes the conduct of business requirements for authorised insurance undertakings and insurance intermediaries including tied insurance intermediaries and ancillary insurance intermediaries.

3.0 Amendments to the Insurance Rules

Since the scope of the Insurance Distribution Directive extends also to insurance undertakings and reinsurance undertakings distributing re/insurance products, minor amendments have been

carried out to Chapters 1 and 2 of the Insurance Rules issued under the Insurance Business Act (Cap. 403) requiring undertakings to identify a member of the Board of Directors to be responsible for the oversight of the insurance or reinsurance distribution activities carried out by the undertaking concerned, and a person/s within the management structure of such undertaking who is designated to be responsible for the distribution in respect of insurance or reinsurance products.

4.0 Insurance Distribution Directive Legal framework

Licence holders are reminded that the [Insurance Distribution Directive](#) is a framework Directive under the Lamfalussy process which has been supplemented with delegated acts and implementing or regulatory technical standards issued by the European Commission which currently include the following:

- (a) [Commission Delegated Regulation \(EU\) 2017/2358](#) of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors;
- (b) [Commission Delegated Regulation \(EU\) 2017/2359](#) of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products;
- (c) [Commission Implementing Regulation \(EU\) 2017/1469](#) of 11 August 2017 laying down a standardised presentation format for the insurance product information document.

EU Regulations are considered to form part of the Member State's legal framework. Therefore, Licence holders should note that apart from the aforementioned Maltese insurance distribution legislation they are required to take into consideration the EU legislation mentioned in this paragraph.

Insurance undertakings and insurance agents are expected to bring the contents of this Circular to the attention of the tied insurance intermediaries acting on their behalf.

Any queries are to be addressed to the Insurance and Pensions Supervision Unit by email on ipsu@mfsa.com.mt

**Communications Unit
Malta Financial Services Authority
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