

**IMPORTANT INFORMATION YOU SHOULD READ BEFORE COMPLETING ANY OF THE FORMS INCLUDED IN THE SCHEDULES BELOW**

We are required by law to determine applications within the timeframe specified under the Insurance Business Act from receipt of a properly completed application including relevant documentation. However we aim to process applications and take decisions about applications as soon as possible.

In this regard, an Application pack should be as comprehensive as possible and should be submitted complete and not in a piecemeal fashion. The Application should be accompanied by the appropriate fee and all the relevant documents for the processing of the respective Application to commence. In the instance where application documents are submitted in a piecemeal fashion or are incomplete, the processing of an application will not start and will be delayed until receipt of all the relevant documents and fees concerned. An Application is deemed to have been officially submitted once a full application pack (i.e. the Application Form and all relevant supporting documentation) together with the relevant application fee is submitted to the MFSA.

Moreover the time taken to determine each application is significantly affected by the quality of the application submitted. In this regard, Applicants are advised to provide comprehensive information as much as possible regarding the regulated activities the Applicant intends to carry out and how it will be carrying out those activities. The Applicant's description of its business is an integral basis of the processing of the application. The amount of detail submitted should be proportionate to the nature and scale of the business the Applicant intends to carry out and the risks to the Applicant's clients. It is important that Applicants are transparent with the MFSA at all stages of the application process. In this manner unnecessary delays on processing will be avoided.

If an authorisation is issued, its terms will depend (inter alia) upon all matters and circumstances discussed as part of the Application process. It is therefore essential that all pertinent matters are brought to the attention of the MFSA to enable the competent authority to form a complete and thorough understanding of the Applicant and its proposal.

Responsibility for the submission of all relevant information rests with the Applicant. Timely responses from applicants are expected. Undue and unjustifiably lengthy delays in the submission of responses from applicants may require the re-submission of updated documents.

The provision of false, misleading or inaccurate information or omission of provision of material information may prejudice the status of the application and

may also have a bearing on the fitness and properness of the person providing the information. Any person who knowingly or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect is guilty of an offence under the Insurance Business Act.

If, after the Application has been submitted, the Applicant becomes aware that the information submitted has changed or if the Applicant becomes aware of any material fact that affects the information submitted, the Applicant must inform the MFSA immediately.

If the proposal changes significantly and materially during the application process, then the processing time may be lengthier than in normal circumstances.

All questions should be answered. In case where replies go beyond the space provided, separate sheets should be used. If the Applicant believes that a question does not apply, the response should be "Not Applicable". NONE OF THE QUESTIONS ARE TO BE LEFT UNANSWERED.

Any supporting documents submitted as part of the application pack which are not in English should be translated into English before being submitted to the competent authority .

Applicants are encouraged to also send the Application Form electronically. The respective application fee is to be payable together with the submission of the Application Form. The fee structure is found in the Insurance Business (Fees) Regulations, 2014 which can be down loaded from the MFSA's website.

## SECOND SCHEDULE

(Paragraph 1.6(b) of Chapter 1)

### INSURANCE BUSINESS ACT, 1998

(Article 11 of the Act)

#### **Application by an undertaking whose head office is in a country outside Malta for authorisation to carry on business of insurance**

Director-General  
Malta Financial Services Authority

I hereby apply for the issue of an authorisation to the undertaking whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998.

An application for authorisation fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by \_\_\_\_\_ payable to the Malta Financial Services Authority.

Particulars of the applicant undertaking and other matters relevant to this application are provided herein.

#### **Contact details of person dealing with this application, in BLOCK LETTERS:**

Name: \_\_\_\_\_

Entity of contact person: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Position: \_\_\_\_\_

Telephone number/s: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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**A: Applicant details**

A1. Name of applicant:- \_\_\_\_\_

A2. Date of registration, incorporation or constitution under the laws of the country where its head office is situated (*day/month/year*):-  
\_\_\_\_\_

A3. Registration, incorporation or constitution number:-  
\_\_\_\_\_

A4. Address of registered office including Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A5. Business telephone number/s:-  
\_\_\_\_\_

A6. Business fax number/s:-  
\_\_\_\_\_

A7. Business e-mail address/es:-  
\_\_\_\_\_

A8. Name of company secretary  
\_\_\_\_\_

A9. Name of the approved auditors:-  
\_\_\_\_\_

A9.1. Address including Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_

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A9.2. Business telephone number/s:-

A9.3. Business fax number/s:-

A9.4. Business e-mail address/es:-

A10. Name of the principal bankers:-

A10.1. Address including Post Code:-

A10.2. Business telephone number/s:-

A10.3. Business fax number/s:-

A10.4. Business e-mail address/es:-

A11. Name of the legal consultants:-

A11.1. Address including Post Code:-

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A11.2. Business telephone number/s:- \_\_\_\_\_

A11.3. Business fax number/s:- \_\_\_\_\_

A11.4. Business e-mail address/es:- \_\_\_\_\_

A12. Date on which the applicant's financial year ends:- \_\_\_\_\_

**B: Shareholders and percentage sizes of holdings or voting rights (Note 1)**

**B1. Individual shareholders:-**

Name:- (1) \_\_\_\_\_

Passport number:- \_\_\_\_\_

Address including Post Code:- \_\_\_\_\_

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Proportion and form of voting rights/share capital held:- \_\_\_\_\_

Name:- (2) \_\_\_\_\_

Passport number:- \_\_\_\_\_

Address including Post  
Code:-

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Proportion and form of  
voting rights/share capital  
held:-

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B2. *Body* *corporate*  
*shareholders:-*

Name:-

(1)\_\_\_\_\_

Registration, incorporation  
or constitution number:-

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Address of registered office  
including Post Code:-

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Proportion and form of  
voting rights/share capital  
held:-

---

Name:-

(2)\_\_\_\_\_

Registration, incorporation  
or constitution number:-

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Address of registered office  
including Post Code:-

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Proportion and form of voting rights/share capital held:-

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**C: Key functions and Officers (Note 2)**

C1. Name of person within the branch set-up who is proposed to be responsible for the Risk Management function:-

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C2. Name of person, position and entity (if outsourced) who is proposed to lead the performance of the Risk Management function:-

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C3. Name of person within the branch set-up who is proposed to be responsible for the Compliance function (if function is planned to be outsourced):-

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C4. Name of person, position and entity (if outsourced) who is proposed to act as Compliance Officer:-

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C5. Name of person within the branch set-up who is proposed to be responsible for the Internal Audit function (if function is planned to be outsourced):-

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C6. Name of person, position

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and entity (if outsourced) who is proposed to lead the performance of the Internal Audit function:-

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C7. Name of person within the branch set-up who is proposed to be responsible for the Actuarial function (if function is planned to be outsourced):-

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C8. Name of person, position and entity (if outsourced) who is proposed to lead the performance of the Actuarial function:-

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C9. Name of person within the branch set-up who is proposed to be responsible for any other key function identified by the applicant (if function is planned to be outsourced):-

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C10. Name of person, position and entity (if outsourced) who is proposed to be performing any other key function identified by the applicant:-

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C11. Name of a Board member responsible for the oversight of the insurance and, or reinsurance distribution activities of the undertaking<sup>1</sup>:-

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C12. Name of a person within the management structure of the

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<sup>1</sup> Applicable as from 1<sup>st</sup> October 2018

undertaking who is designated to be responsible for the distribution in respect of insurance and, or reinsurance products<sup>2</sup>:-

\_\_\_\_\_

C13. Name of person who is proposed to be appointed as money laundering reporting officer of the undertaking (*if applicable*):

\_\_\_\_\_

**D: Authorisation/permission to carry on business of insurance in the country of registration, incorporation or constitution**

D1. Long term business:-

D2. General business:-

D3. Reinsurance:-

D4. Authorisation/permission number:-

\_\_\_\_\_

**E: Kind of business of insurance to be carried on forming the object of the application (*please tick the appropriate boxes*) (Note 4)**

E1. Business of reinsurance *solely and exclusively*:-

E2. Business of direct insurance *solely and exclusively* :-

<sup>2</sup> Applicable as from 1<sup>st</sup> October 2018

- |     |  |                          |
|-----|--|--------------------------|
|     |  | <input type="checkbox"/> |
| E3. | Combined – Business of direct insurance and reinsurance :-                                       | <input type="checkbox"/> |
| E4. | Long term business in relation to commitments where Malta is the country of the commitment:-     | <input type="checkbox"/> |
| E5. | Long term business in relation to commitments where Malta is not the country of the commitment:- | <input type="checkbox"/> |
| E6. | General business in relation to risks situated in Malta  | <input type="checkbox"/> |
| E7. | General business in relation to risks situated outside Malta                                     | <input type="checkbox"/> |

**F: Classes of long term business and groups of classes of general business which the undertaking proposes to carry on (Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof) (Note 5)**

**Long term business -**

- I.  Life and annuity
- II.  Marriage and birth
- III.  Linked long term
- IV.  Permanent health
- V.  Tontines
- VI.  Capital redemption
- VII.  Pension fund management

VIII.  Collective insurance

IX.  Social insurance

**General business -**

1	<input type="checkbox"/>	Accident and Health	<table border="1"><tr><td>1</td><td>2</td></tr></table>	1	2																		
1	2																						
2	<input type="checkbox"/>	Motor	<table border="1"><tr><td>1(d)</td><td>3</td><td>7</td><td>10</td></tr></table>	1(d)	3	7	10																
1(d)	3	7	10																				
3	<input type="checkbox"/>	Marine and Transport	<table border="1"><tr><td>1(d)</td><td>4</td><td>6</td><td>7</td><td>12</td></tr></table>	1(d)	4	6	7	12															
1(d)	4	6	7	12																			
4	<input type="checkbox"/>	Aviation	<table border="1"><tr><td>1(d)</td><td>5</td><td>7</td><td>11</td></tr></table>	1(d)	5	7	11																
1(d)	5	7	11																				
5	<input type="checkbox"/>	Fire and other Damage to Property	<table border="1"><tr><td>8</td><td>9</td></tr></table>	8	9																		
8	9																						
6	<input type="checkbox"/>	Liability	<table border="1"><tr><td>10</td><td>11</td><td>12</td><td>13</td></tr></table>	10	11	12	13																
10	11	12	13																				
7	<input type="checkbox"/>	Credit and Suretyship	<table border="1"><tr><td>14</td><td>15</td></tr></table>	14	15																		
14	15																						
8	<input type="checkbox"/>	General	<table border="1"><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr><tr><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr><tr><td>11</td><td>12</td><td>13</td><td>14</td><td>15</td></tr><tr><td>16</td><td>17</td><td>18</td><td></td><td></td></tr></table>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18		
1	2	3	4	5																			
6	7	8	9	10																			
11	12	13	14	15																			
16	17	18																					

**G: Where the undertaking proposes to carry on long term business in relation to with-profits business in terms of classes I and III as specified above, provide the name and particulars of the appointed actuary**

G1. Name of appointed actuary:- \_\_\_\_\_

G1.1. Address including Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

G1.2. Business telephone number/s:- \_\_\_\_\_

G1.3. Business fax number/s:- \_\_\_\_\_

G1.4. Business e-mail address/es:- \_\_\_\_\_

**H: Where business of insurance is to be carried on (please tick the appropriate box)**

H1. In Malta:-

H2. From Malta:-

H3. In and from Malta:-

**I: Manner of management (please tick the appropriate box) (Note 6)**

I1. Individual exercising managerial functions:- \_\_\_\_\_

I2. Insurance manager:- \_\_\_\_\_

**J: The Malta Branch (Note 7)**

J1. Date of registration of applicant as an oversea undertaking under the

Companies Act, 1995  
(day/month/year):-

\_\_\_\_\_

J2. Registration number:-

\_\_\_\_\_

J3. Address of registered office  
including Post Code:-

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

J4. Business telephone  
number/s:-

\_\_\_\_\_

J5. Business fax number/s:-

\_\_\_\_\_

J6. Business e-mail address/es:-

\_\_\_\_\_

J7. Name of the undertaking's  
principal bankers:-

\_\_\_\_\_

J7.1. Address including Post  
Code:-

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

J7.2. Business telephone  
number/s:-

\_\_\_\_\_

J7.3. Business fax number/s:-

\_\_\_\_\_

J7.4. Business e-mail address/es:-

\_\_\_\_\_

**K1 Principal place of business**

K1. Address of principal place of business in Malta including Post Code (*if not the same as A4.*):-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

K1.2. Business telephone number/s:-  
\_\_\_\_\_

K1.3. Business fax number/s:-  
\_\_\_\_\_

K1.4. Business e-mail address/es:-  
\_\_\_\_\_

**K2. Other place/s of business (Note 8)**

K2.1. Address or addresses of other place or places of business in Malta including Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

K2.3. Business telephone number/s:-  
\_\_\_\_\_

K2.4. Business fax number/s:-  
\_\_\_\_\_

K2.5. Business e-mail address/es:-  
\_\_\_\_\_

**L. General representative in Malta (*refer to Note 2*)**

L1. *(where the representative is an individual)*

L1.1. Surname:- \_\_\_\_\_

Forename/s:- \_\_\_\_\_

Title:- \_\_\_\_\_

Name commonly known by:- \_\_\_\_\_

Any previous name/s by  
which known:-  
\_\_\_\_\_

L1.2. Identity Card number:- \_\_\_\_\_

L1.3. Business Address including  
Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L1.4. Business telephone  
number/s:- \_\_\_\_\_

L1.5. Business fax number/s:- \_\_\_\_\_

L1.6. Business e-mail address/es:- \_\_\_\_\_



L2. *(where the representative is not an individual)*

L2.1. Name of body corporate:- \_\_\_\_\_

L2.2. Date of registration under the Companies Act, 1995 (day/month/year):- \_\_\_\_\_

L2.3. Registration number:- \_\_\_\_\_

L2.4. Address of registered office including Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L2.5. Address of principal place of business including Post Code (if not the same as M2.4.): -  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L2.6. Business telephone number/s:- \_\_\_\_\_

L2.7. Business fax number/s:- \_\_\_\_\_

L2.8. Business e-mail address/es:- \_\_\_\_\_

L2.9. *(individual representative of the representative body corporate)*

L2.9.1. Surname:- \_\_\_\_\_

Forename/s:- \_\_\_\_\_

Title:- \_\_\_\_\_

Name commonly known by:- \_\_\_\_\_

Any previous name/s by  
which known :-  
\_\_\_\_\_

L2.9.2. Identity Card number:- \_\_\_\_\_

L2.9.3. Business Address including  
Post Code:-  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

L2.9.4. Business telephone  
number/s:- \_\_\_\_\_

L2.9.5. Business fax number/s:- \_\_\_\_\_

L2.9.6. Business e-mail address/es:- \_\_\_\_\_

### **Declarations**

The particulars provided in this application and the documents produced with it are complete and true to the best of my knowledge, information and belief. I hereby authorise the competent authority to contact any or all of the above-named or any other person considered by the competent authority to be relevant, both at the date of application and at any time in the future unless and

until I rescind this authority in writing. I also undertake to inform the competent authority in writing of any material change relevant to this application.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*When filling in the application form, if more space is needed to fill in any details or to supply any information required by the form, please add continuation sheets at the back of the form and mark each sheet with the section appropriate to the details given or information supplied. The person who signs the application form shall initial each page including any continuation sheet.*

*The Personal Questionnaire, Competency Form and Assessment Form referred to hereunder are set out in Annexes I, II and III to Chapter 2 in Part A of these Insurance Rules .*

*Documentation submitted shall have to be either in the Maltese language or the English language.*

*Where the information required has already been submitted, such information may be omitted.*

## **Notes**

1. Where qualifying shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Chapter 3 in Part A of these Insurance Rules should be provided.

Where the applicant has or will have one or more qualifying shareholders, or if the applicant holds or will hold a qualifying shareholding in any one or more companies, a diagram of the group *family tree* should be attached.

***Note: The family tree should give details up to the ultimate beneficial owner/s, showing percentage size of holdings in each entity unless (a) the entity has one ultimate beneficial owner with a holding of over 50% of the voting rights or (b) no less than fifty ultimate beneficial owners can between them account for over 50% of the voting rights. In either case (a) or (b) it will only be necessary to give details of the ultimate beneficial owners with holdings of 10% or more.***

Applicants are also directed to refer to the [MFSA Policy Document – Applicants for authorisation as Credit Institutions and Insurance Companies](#) dated 13<sup>th</sup> February 2012.

2. A Personal Questionnaire should be submitted for:
  - (a) Persons responsible for key functions (“key function holders”) or when a key function is outsourced, the persons appointed to oversee the outsourced key function from within the branch set-up. Where a group of persons or a committee is responsible for the key function, a PQ is to be submitted for the person leading the committee;
  - (b) Compliance officer or where the compliance function is outsourced, the person who is responsible to carry out the function at the service provider;
  - (c) Money Laundering Reporting Officer (“MLRO”) (if applicable);
  - (d) An individual fulfilling the requirements of article 11(2) of the Act;
  - (e) Actuary appointed in terms of article 22 of the Act.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Annexes I and II appended to this Chapter.

3. A Competency form should be submitted by:
  - a) the proposed compliance officer;
  - b) the proposed appointed actuary (if applicable);
  - c) each person within the undertaking responsible for a key function if the latter is outsourced;
  - d) each person performing a key function if the latter is undertaken in-house;
  - e) committee members (if applicable) performing or overseeing a key function.
4. An Assessment form should be submitted by the applicant in cases where a key function is going to be outsourced
5. Where an applicant proposes to carry on -

- general business, the applicant may also propose to carry on simultaneously reinsurance of long term business;
  - long term business, the applicant may also propose to carry on simultaneously general business classes 1 and 2;
  - business restricted to reinsurance, the applicant may also propose to carry on simultaneously general reinsurance business and long term reinsurance business.
6. Where the applicant proposes to carry on general business, the scheme of operations is to include the individual classes of general business (as per Part I of the Third Schedule to the Act) which the undertaking proposes to carry on.
  7. The individual exercising managerial functions referred to in I1. should conform with the provisions of article 11(2) of the Act. The insurance manager referred to in I2. should conform with the provisions of the Insurance Intermediaries Act (Cap.487). In each case, attach an attested copy of the respective appointment including a copy of the power of attorney conferred upon the person by the undertaking.
  8. The applicant shall provide the competent authority with the list of particulars required to be provided to the Registrar of Companies under the Companies Act, 1995.
  9. Any other place of business shall be managed by an individual exercising managerial functions.
  10. As from 21 December 2012, the unisex rule contained in Article 5(1) of Directive 2004/113/EC must be applied without any possible exception in relation to the calculation of individuals' premiums and benefits in contracts of insurance entered into after the said date. The applicant is to be guided by the [European Commission Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 \(Test-Achats\)](#).

## **Documentation**

Please provide the following documentation:

1. Memorandum and articles of association of the undertaking or any other instrument of registration, incorporation or constitution of the undertaking.
2. An attested copy of the original certificate of incorporation or registration of the undertaking.
3. A profile of the undertaking outlining lines of business, subsidiaries/associates and geographical spread.
4. Organisation set-up including number of employees and their qualifications.
5. A certificate of solvency of the undertaking issued by the home supervisory authority.
6. Audited copies of the financial statements of the undertaking for the last two preceding financial years.
7. Copies of all proposed reinsurance treaties in respect of the Malta business.
8. A scheme of operations relating to the proposed business to be carried on by the branch prepared in accordance with this Chapter.
9. Where the applicant proposes to carry on long term business in relation to with-profits business in terms of classes I and III of the Second Schedule to the Act, the name and other particulars of the institute of which the appointed person is a fellow or holds actuarial qualifications of similar standing of an institute of repute recognised for such purposes by the competent authority.
10. An undertaking from the applicant that it will cover the Solvency Capital Requirement and the Minimum Capital Requirement in accordance with the requirements referred to in articles 15 and 17 of the Act.
11. Attach an attested copy of the appointment of the general representative made by the applicant.
12. Documentary evidence that the undertaking maintains in Malta at all times assets of such kind and amount as may be prescribed or determined for the purposes of this application.

13. Where the applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, in relation to vehicles registered in Malta it is to produce:
  - (a) a declaration stating that the policy complies with the specific requirements in respect of such policies, contained in the Motor Vehicle Insurance (Third Party Risks) Ordinance (Cap.104), and that the undertaking undertakes to comply with the provisions of any law relating to any such insurance which may from time to time be in force;
  - (b) an irrevocable undertaking to sign:
    - i. the **Malta Green Card Bureau Agreement** whose object, in relation to Third Party Road Risks, is that the Bureau is to remain a member of the Uniform Agreement between Bureaux established by a European instrument on Road Transport and to act as Paying Bureau and Handling Bureau in accordance with the terms of the Uniform Agreement;
    - ii. the **Motor Insurers' Bureau Domestic Agreement** whose object is to require members of the Protection and Compensation Fund to act as insurers concerned;
  - (c) a written undertaking to the Protection and Compensation Fund Management Committee to contribute for the compensation of victims of road traffic accidents in the circumstances specified in Part IV of the Protection and Compensation Fund Regulations, 2003.
14. Where the applicant proposes to carry on business of insurance of group 2 specified in Part II of Third Schedule to the Act in relation to vehicles registered in any other jurisdiction, the applicant should also provide a declaration stating that the policy complies with the specific requirements of the applicable legislation and that the undertaking undertakes to comply with the provisions of any law relating to such jurisdiction.
15. Where the applicant proposes to carry on class 10 of Part I of the Third Schedule to the Act, other than carrier's liability, it is to communicate the name and address of the claims representative appointed in each Member State and EEA State other than Malta.
16. A written undertaking to the Protection and Compensation Fund Management Committee to pay a contribution to be utilised exclusively for the payment of claims remaining unpaid by reason of the insolvency



of a undertaking relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Paragraph 13 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business as a captive insurance undertaking or a captive reinsurance undertaking where the insurance relates to vehicles not registered in Malta.

Paragraph 16 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business as a captive insurance undertaking or a captive reinsurance undertaking.

For more information regarding the agreements mentioned in paragraph 14 kindly contact the Director-General of the Malta Insurance Association. Tel: (356) 21232640, (356) 21240609; Fax: (356) 21248388.

During the analysis of the application, the competent authority reserves the right to require submission of any other documentation which it deems necessary.

The **original** document or a certified true photocopy of the **original** is to be produced. Where a photocopy of a document is produced, the competent authority may also require the applicant to produce the **original** document.

## **Annex I**

### **Guidelines for Compliance Officers**

#### **1.0 Preliminary**

**1.1** As the regulator of business of insurance, the competent authority is responsible for ensuring that:

(a) every undertaking desirous of applying for authorisation to carry on and, on continuing basis, an undertaking authorised to carry on business of insurance; or

(b) every branch of a undertaking whose head office is in a country outside Malta carrying on business of insurance in Malta; or

(c) every company formed or constituted as a protected cell company;

(a) every company formed and constituted in Malta as an incorporated cell company or incorporated cell,

(the “Company”) is required to identify one individual who will be responsible for ensuring the company’s adherence.

#### **2.0 Appointment of a compliance officer**

**2.1** Before a compliance officer is appointed, the company must inform in writing the competent authority of the proposed appointment, after having conducted its own due diligence checks.

**2.2** The competent authority will then write to the person proposed reminding that person of the responsibilities attached to the role and asking that person to confirm in writing his understanding of these responsibilities and acceptance attached to the compliance role.

#### **3.0 The responsibilities of a compliance officer**

**3.1** The compliance officer is the person responsible for all aspects of compliance.

- 3.2** The compliance officer shall be expected to demonstrate independence of judgement and to exercise proper day-to-day supervision and control over the activity of the company.
- 3.3** The compliance officer must familiarise himself thoroughly with Insurance Legislation which may be in force from time to time, the conditions of authorisation that attach to the company's authority
- 3.4.** The competent authority expects the compliance officer:
- (a) not to breach, or to permit breaches by others, of internal control procedures and systems or conditions of authorisation to which the company is subject;
  - (b) if he becomes aware of such breaches, to draw them to the attention of the person concerned and, where appropriate, to the attention of the board of directors;
  - (c) to record in writing all such breaches and course of action taken as a result;
  - (d) to notify the competent authority of any breach of conditions of the company's authorisation upon being aware of such a breach;
  - (e) to ensure, as far as possible, that incorrect or misleading information is not provided deliberately or recklessly to it, either in supervisory returns or in other way.
- 3.5** The compliance officer must be aware that the competent authority requires very high standards of conduct and compliance from all companies. A breach of any condition of authorisation, and in particular, evidence of bad faith, lack of care and concern for the interests of policyholders, potential policyholders and the general public, deceptive acts and behaviour, and incompetence, shall be all considered to be serious matters.

#### **4.0 Consultation with the competent authority**

- 4.1** The competent authority considers it important to ensure that the compliance officer understands the responsibilities placed upon him and that it is always prepared to discuss any doubts, worries, suspicions or queries that may arise from time to time in respect of his role.

## Annex II

### Guidelines for Money Laundering Reporting Officers

#### 1.0 Preliminary

1.1 As the regulator of business of insurance, the competent authority is responsible for ensuring that:

(a) every undertaking desirous of applying for authorisation to carry on and, on continuing basis, an undertaking authorised to carry on long term business of insurance, other than business of reinsurance; or

(b) every branch of an undertaking whose head office is in a country outside Malta carrying on long term business of insurance, other than business of reinsurance; or

(c) every undertaking desirous of applying for authorisation to carry on long term business of insurance, other than business of reinsurance, as a captive insurance undertaking and, on continuing basis, an undertaking authorised to carry on such business; or

(d) every company formed or constituted as a protected cell company authorised to carry on long term business of insurance, other than business of reinsurance;

(e) every company formed or constituted as an incorporated cell company authorised to carry on long term business of insurance, other than business of reinsurance, or an incorporated cell authorised to carry on such business,

(“the company”) is aware of its responsibilities under the anti-money laundering legislation in Malta, mainly the Prevention of Money Laundering Act, (Cap. 373), the Regulations made thereunder and the Implementing Procedures issued by the Financial Intelligence Analysis Unit.

1.2 Regulation 15 of the Prevention of Money Laundering and Funding of Terrorism Regulations (S.L.373.01), requires a company to appoint a money laundering reporting officer.

## **2.0 Appointment of money laundering reporting officer**

**2.1** Before a money laundering reporting officer is appointed, the company must inform, in writing, the competent authority of the proposed appointment after having conducted its own due diligence checks.

**2.2** The competent authority will then write to the person proposed reminding that person of the responsibilities attached to the role and asking the person to confirm in writing his understanding of these responsibilities and acceptance attached to the role of the money laundering reporting officer.

**2.3** The person assuming the role may or may not act as a compliance officer.

## **3.0 Responsibilities of money laundering reporting officers**

**3.1** The money laundering reporting officer should familiarise himself thoroughly with the Prevention of Money Laundering Act, (Cap. 373) and provisions amending the Act, the Regulations made thereunder, as well as the Implementing Procedures and any guidance notes issued by the Financial Intelligence Analysis Unit.

## **4.0 The responsibilities of the money laundering reporting officer**

**4.1** The money laundering reporting officer should ensure that all staff are familiar with the legislation referred to in paragraph 3.1 above and that regular training is being provided in this regard.

**4.2** Note is to be taken of training that has been carried out and records retained of the persons trained and the date of such training.

**4.3** Care should be taken when new staff are recruited to ensure that they receive the necessary training.

**4.4** The money laundering reporting officer should ensure that proper Customer Due Diligence procedures are in place and that the procedures set out in the Implementing Procedures relating to the identification and verification of natural or legal persons are complied with.

**4.5** Any suspicious transactions are to be reported directly by the money laundering reporting officer to the Financial Intelligence Analysis Unit, even if the transaction is not carried out.

**4.6** The money laundering reporting officer is to set up an internal reporting procedure to ensure that staff can report any such suspicious transactions without hindrance and that clear reporting lines are in place.

**4.7** The money laundering reporting officer must be aware that the competent authority requires very high standards of conduct and compliance on money laundering matters from all companies. Evidence of bad faith, lack of care and concern for the interests of policyholders, potential policyholders and the general public, deceptive acts and behaviour, and incompetence, shall be all considered to be serious matters.

## **5.0 Consultation with the competent authority**

**5.1** The competent authority considers it important to ensure that the money laundering reporting officer understands the responsibilities placed upon him and that it is always prepared to discuss any doubts, worries, suspicions or queries that may arise from time to time in respect of his role.