

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 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.

FOURTH SCHEDULE

(Paragraph 1.6(d) of Chapter 1)

Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2004

Application for approval of a protected cell of an authorised protected cell company to write business of insurance

(Regulation 6 of the Regulations)

Director-General
Malta Financial Services Authority

I hereby apply for the approval of a protected cell under the regulation 6 of the Regulations whose particulars are given below.

An application for approval 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 protected cell and other matters relevant to this application are provided herein. Separate applications are to be submitted for each cell.

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

Name:	
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Entity of contact person:	
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Address:	
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Position:	
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Telephone number/s:	
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E-mail address:	
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A: Applicant Details (Note 1)

Name or proposed name of applicant:-

A1. The protected cell company _____

A2. The protected cell _____

B: Ownership or User Details (Note 2)

B1. *Individual shareholders or
Users of cell:-*

Name:- (1)_____

Identity Card number /
Passport Number :- _____

Address including Post
Code:- _____

Proportion and form of cell
share capital held:- _____

Name:- (2)_____

Identity Card number /
Passport Number :- _____

Address including Post
Code:- _____

	Proportion and form of cell share capital held:-	_____ _____
B2.	<i>Body</i> <i>corporate</i> <i>shareholders:-</i>	
	Name:-	(1)_____
	Registration number:-	_____
	Address of registered office including Post Code:-	_____ _____ _____
	Proportion and form of cell share capital held:-	_____
	Name:-	(2)_____
	Registration number:-	_____
	Address of registered office including Post Code:-	_____ _____ _____
	Proportion and form of cell share capital held:-	_____

C: Cell advisors (Note 3)

Protected Cells cannot have directors but it is possible that persons may be advising in some capacity on individual cells.

C1. Names of persons who are proposed to be appointed advisors to the protected cell:-

D: Cell Share Capital (Note 4)

D1. Amount of the cell share capital:-

D2. Origin of the cell share capital:-

D3. Details of the cell share capital :-

D4. Assets of the cell company attributable to the cell :-

E: Kind of business of insurance to be carried on (*please tick the appropriate boxes*) (Note 5)

E1. Captive re/insurance business:-

☐

E2. Business of reinsurance *solely and exclusively*:-

☐

E3. Business of direct insurance *solely and exclusively* :-

☐

- | | | |
|-----------|--|----------------------|
| | | <input type="text"/> |
| E4. | Combined – Business of direct insurance and reinsurance :- | <input type="text"/> |
| E5. | Long term business in relation to commitments where Malta is the country of the commitment:- | <input type="text"/> |
| E6. | Long term business in relation to commitments where Malta is not the country of the commitment:- | <input type="text"/> |
| E7. | General business in relation to risks situated in Malta | <input type="text"/> |
| E8. | General business in relation to risks situated outside Malta | <input type="text"/> |
| F: | Classes of long term business and groups of classes of general business which the cell proposes to carry on (<i>Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof</i>)(Note 6) | |

Long term business -

- | | | |
|------|----------------------|--------------------|
| I. | <input type="text"/> | Life and annuity |
| II. | <input type="text"/> | Marriage and birth |
| III. | <input type="text"/> | Linked long term |
| IV. | <input type="text"/> | Permanent health |
| V. | <input type="text"/> | Tontines |
| VI. | <input type="text"/> | Capital redemption |

VII. Pension fund management

VIII. Collective insurance

IX. Social insurance

General business -

1	<input type="text"/>	Accident and Health	<table border="1"><tr><td>1</td><td>2</td></tr></table>	1	2																		
1	2																						
2	<input type="text"/>	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="text"/>	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="text"/>	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="text"/>	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="text"/>	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="text"/>	Credit and Suretyship	<table border="1"><tr><td>14</td><td>15</td></tr></table>	14	15																		
14	15																						
8	<input type="text"/>	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 other 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: Country 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: Insurance Business – General

I1. On which date does the
protected cell intend to
commence carrying on
insurance business?
(Note 8)

I2. Have any of the parties
connected with this
application ever applied,
either individually or in

conjunction with others, for authority to transact insurance business in any other jurisdiction? If so please give details.

- I3. Is the fact that there is insurance coverage by the protected cell used publicly (e.g. for marketing etc) or known to third parties in any way (e.g. contractors bonds certified to developers or product liability) advertised?

J: Other

- J1. State any connection between the protected cell (including directors and officers of the cell user) and any person or organisation remunerated directly or indirectly (e.g. insurance brokers, etc) by the cell.

- J2. Details of the protected cell bankers and the signatories to the cell's bank mandate. Please outline the signing details.

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 the 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 and Competency 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. All particulars required by the application form are in respect of a proposed protected cell.

Where the proposed cell is being created by protected cell company which is still in formation, details required by the application form which are not available at the time of submission are to be provided as soon as these are available.

2. Where qualifying cell owners are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying cell owners 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 cell has or will have one or more qualifying shareholders, or if the applicant cell 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.

The applicant cell is to submit the latest audited financial statements of the immediate parent of the proposed cell user, and if applicable the consolidated accounts of the group.

The Passport Number is to be submitted in cases where individual shareholders do not hold an identity card.

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

3. A Competency Form should be submitted for each cell advisor.
4. The application should show the amount of cell capital of the cell, where applicable, and the amount of own funds of the non-cellular section of the cell undertaking which is to be used by the cell.

The applicant shall also advise how it intends to meet the own funds requirement.

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 protected cell proposes to carry on.
7. 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 \(Test-Achats\)](#).

8. The competent authority cannot guarantee to authorise an applicant by a specific date but it will try to take into account any identified timings when assessing the application.

Documentation

Please provide the following documentation:

1. If the protected cell is using own funds of the protected cell company non-cellular section, please include a statement showing the components making up the own funds attributable to the cell.
2. A scheme of operations relating to the proposed business to be carried on by the protected cell prepared in accordance with this Chapter.
3. Copies of all proposed reinsurance treaties.
4. Where the applicant proposes to carry on long term business in relation to with-profits business and life insurance business with guarantees, a profile of the office of the appointed actuary including 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 Authority.
5. Copy (*in draft form*) of any agreement entered into with third parties.
6. 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 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.
7. 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.
8. 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 or EEA State other than Malta.
9. 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 6 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 9 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 7 kindly contact the Director-General of the Malta Insurance Association. Tel: 21232640, 21240609; Fax: 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 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 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 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 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.