

FREEDOM OF ESTABLISHMENT AND FREEDOM
TO PROVIDE SERVICES BY A EUROPEAN
INTERMEDIARY RULEBOOK
CHAPTER 16

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16.1 Introduction

- 16.1.1 This Chapter applies to a European insurance intermediary and a European ancillary insurance intermediary ("European Intermediary") which has been registered in a Member State or an EEA State, other than Malta in accordance with Article 3 of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) ("Insurance Distribution Directive"), which intends to establish a branch in Malta in exercise of a European right and/or seeking to provide services in Malta in exercise of a European right, and on a continuing basis by a European Intermediary. This Chapter lays down the Insurance Distribution Rules to be complied with in terms of article 4 of the Act and regulations 3, and 7 of the European Passport Rights for Intermediaries, 2018.
- 16.1.2 This Chapter lays down the applicable provisions to be complied with on a continuing basis by a European Intermediary in terms of Article 4(2) and 6(2) of the Insurance Distribution Directive.
- 16.1.3 The Chapter lays down the establishment conditions which a European Intermediary seeking to establish a branch in Malta in exercise of a European right is required to submit, as well as the service conditions which a European Intermediary seeking to provide services in exercise of a European right is required to submit.

16.2 Right of Establishment by a European Intermediary

- 16.2.1 Sections 16.3 to 16.6 apply to a European Intermediary:
- (a) seeking to establish a branch in Malta in exercise of a European right;
 - (b) which is seeking to establish a branch in Malta in lieu of, or in addition to, providing services in Malta in exercise of a European right;
 - (c) which has established a branch in Malta in exercise of a European right, and seeks to effect changes in the branch's details.

16.3 European Intermediary Establishing a Branch in Malta

Establishment Conditions

- 16.3.1 A European Intermediary seeking to establish a branch in Malta in exercise of a European right, shall apply the following establishment conditions:
- (a) the competent authority has received a notice from the European regulatory authority of the European Intermediary that it has given its consent to the European Intermediary to establish a branch in Malta;
 - (b) the consent notice referred to in paragraph (a) shall be submitted in the English language and shall include the following details:

- (i) name and address and, where applicable, the registration number of the European Intermediary and email details of the head office of the European Intermediary;
- (ii) a statement that the European Intermediary intends to establish a branch in Malta on the basis of the freedom of establishment in terms of Regulation 3 of the Passport Rights for European Intermediaries Regulations, 2018 transposing Article 4 of the Insurance Distribution Directive;
- (iii) the category of European Intermediary, and where applicable, the name of any authorised insurance undertaking, authorised reinsurance undertaking, European insurance undertaking or European reinsurance undertaking, represented;
- (iv) the relevant classes of insurance according to Annex I and II of Directive 2009/138/EC, for which the European Intermediary is authorised in his Home Member State, if applicable;
- (v) where available, the nature of the risks and commitments which will be covered by the insurance contracts which the European Intermediary intends to distribute in Malta together with a copy of the contract of insurance which will be distributed from the branch together with details of the manner in which insurance distribution activities will be carried out by the branch in Malta;
- (vi) the address in Malta from which documents may be obtained from the European Intermediary and to which they may be delivered;
- (vii) the name of any natural person responsible for the management of the branch together with a confirmation that this person has satisfied the knowledge and ability criteria in terms of the Insurance Distribution Directive, applicable to such person;
- (viii) the name of the European regulatory authority, if different from the registration authority;
- (ix) in the case of a European Intermediary acting under the responsibility of one or more insurance or reinsurance undertakings or intermediaries, the name of those insurance or reinsurance undertakings or intermediaries for which the European Intermediary is authorised to market insurance products, if available;
- (x) the address of the online register in which details about the European Intermediary may be found.

16.4 The Notification Procedure

- 16.4.1 When the competent authority receives a consent notice from the European regulatory authority of a European Intermediary, it will acknowledge receipt immediately of the notice received. Within one month of the date on which the competent authority receives the consent notice containing the information required in Section 16.3, it will notify the European regulatory authority concerned of the applicable provisions in

Section 16.5 under which in the interest of the general good, distribution activities shall be carried out in Malta.

16.4.2 The competent authority shall, if necessary, inform the European regulatory authority of any consequential changes in the applicable provisions as determined in Section 16.5.

16.5 Applicable Provisions

16.5.1 For the purposes of Article 6 and 7(2) of the Insurance Distribution Directive, a European Intermediary establishing a branch in Malta is required to comply with the provisions of the [Conduct of Business Rulebook](#) which are applicable to a branch of a European Intermediary which has established a branch in Malta in exercise of a European right in terms of the European Passport Rights for Insurance Intermediaries Regulations, 2018 as indicated in Annex 1 to this Chapter.

16.6 **Changes to Branch's Details**

16.6.1 The words "*change to any of the particulars communicated*" in Regulation 3(6) of the European Passport Rights for Intermediaries Regulations, 2018, shall include, but are not limited to:

- the change of intention to provide insurance distribution activities in Malta through a branch;
- the European Intermediary's removal from the register in its Home Member State.

16.7 Right to Provide Services by a European Intermediary

16.7.1 Sections 16.8 to 16.11 shall apply to a European Intermediary:

- (a) which is seeking to provide services in Malta in exercise of a European right;
- (b) which is seeking to provide services in Malta in lieu of, or in addition to, establishing a branch in Malta in exercise of a European right;
- (c) which provides services in Malta in exercise of a European right, and seeks to effect changes to the details of those services.

16.8 European Intermediaries Seeking to Provide Services in Malta

Service Conditions

16.8.1 A European Intermediary seeking to provide services in Malta in exercise of a European right shall apply the following services conditions:

- (a) the competent authority has received a consent notice from the European regulatory authority of the European Intermediary, stating that it has given its consent to the European Intermediary to provide services in Malta;

- (b) the consent notice referred to in (a) above shall be submitted in the English language and shall include the following details:
- (i) the name, address and, where applicable, the registration number of the European Intermediary, and email details of the head office of the European Intermediary;
 - (ii) a statement that the European Intermediary intends to provide services in Malta on the basis of the freedom to provide services in terms of regulation 7 of the Passport Rights for European Intermediaries Regulations, 2018 transposing Article 6 of the Insurance Distribution Directive.
 - (iii) the category of intermediary and, where applicable the name of any authorised insurance undertaking, authorised reinsurance undertaking, European insurance undertaking or European reinsurance undertaking represented;
 - (iv) the relevant classes of insurance according to Annex I and II of Directive 2009/138/EC for which the European Intermediary is authorised in his Home Member State, if applicable;
 - (v) where available, the nature of risks and commitments which will be covered by the insurance contracts with the European Intermediary intends to distribute in Malta;
 - (vi) the name of the regulatory authority responsible for the supervision of the European Intermediary if different from its registration authority (the European regulatory authority);
 - (vii) the address of the online register in which details about the European Intermediary may be found.

16.9 The Notification Procedure

16.9.1 Where the competent authority receives a notice from a European regulatory authority, the competent authority will acknowledge receipt immediately after the notice is received. The competent authority will notify the European Intermediary, in writing, of the applicable provisions referred to in Section 16.10 below.

16.9.2 A European Intermediary that has satisfied the service conditions provided in Section 16.8 may commence providing services in Malta on the certified date on which it is informed by the European regulatory authority that a notice from the European regulatory authority has been sent to the competent authority, provided that such European Intermediary complies with the applicable provisions referred to in Section 16.10 below.

16.10 Applicable Provisions

16.10.1 For the purposes of Article 6 of the Insurance Distribution Directive, a European Intermediary carrying on insurance distribution activities in Malta on the basis of the

freedom of services is required to comply with the provisions of the [Conduct of Business Rulebook](#) as indicated in Annex 2 to this Chapter.

16.11 Changes of Details of Services

16.11.1 A European Intermediary which has exercised a European right and provides services in Malta, and seeks to effect any changes in the service's details indicated in Section 16.8, is required to its European regulatory authority stating the details of the proposed change. Where the European regulatory authority does not object to the proposed changes, it shall communicate the information to the competent authority as soon as possible and in any event not later than one month after it has received the information from the European Intermediary. The competent authority will immediately acknowledge receipt of the notice received.

16.11.2 The words "change to any of the particulars communicated" in regulation 7(6) of the European Passport Rights for Intermediaries Regulations, 2018, shall include, but are not limited to:

- the change of intention to provide insurance distribution activities in Malta through the freedom to provide services in Malta; and
- the European Intermediary's removal from the register in its Home Member State.

