

Insurance Intermediaries Rule 20 of 2007

Issuing and Registration of Underwriting Agreements

Rule pursuant to article 32 of the Act

1. (1) This Insurance Intermediaries Rule on the issuing and registration of underwriting agreements (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 32 of the Act.

(2) This Rule shall come into force on 1st June 2007.

Application

2. This Rule applies, on continuing basis, to a person enrolled in the Brokers List and carrying on business as insurance broker desirous of making or entering into an underwriting agreement with an authorised undertaking (the “enrolled person”).

Scope

3. The scope of this Rule is to determine -

(a) the provisions to be included in and excluded from underwriting agreements;

(b) the information and documentation which an enrolled person is required to submit to the Authority when applying for registration of an underwriting agreement;

(c) the manner in which an enrolled person is to apply for registration of an underwriting agreement.

Underwriting agreements

4. An underwriting agreement, in relation to business of insurance, is defined in subarticle (7) of article 32 of the Act as an agreement between an authorised undertaking and an enrolled person under which the enrolled person may, in accordance with the terms

thereof, accept risks on behalf of the authorised undertaking.

Restrictions and limitations

5. Pursuant to subarticles (1) and (7) of article 32 of the Act, underwriting agreements -

(a) are limited to general business classes; and

(b) are made or entered into solely with authorised undertakings.

Provisions to be included in underwriting agreements

6. Every underwriting agreement shall include provision -

(a) for cancellation at any time of the underwriting agreement by the enrolled person or the authorised undertaking upon such notice in writing (being not less than thirty days) as may be specified in the underwriting agreement;

(b) that, in the event of cancellation of the underwriting agreement, the enrolled person shall return promptly to the authorised undertaking, or the undertaking's authorised insurance agent, or its appointed representative, all unused certificates of insurance and other documentation or material in its possession in connection with the underwriting agreement which might be used as evidence of the insurance and which bear the name of, or refer to, the authorised undertaking;

(c) for a forecast of the gross annual premium income estimated to accrue under the underwriting agreement;

(d) that, if the enrolled person becomes aware that the estimate of the gross annual premium income will be, or is likely to be, exceeded, the person shall immediately advise the authorised undertaking either directly or through the undertaking's authorised agent;

(e) either for its expiry on a date no more than one year from its commencement or for it to be subject to annual review;

(f) that no marine open cargo cover may be granted for a

period greater than twelve months;

(g) that the enrolled person shall establish and maintain a proper accounting system recording premiums, claims paid and outstanding claims in respect of insurances effected under the underwriting agreement and shall submit detailed accounts of the same to the authorised undertaking on a regular basis either directly or through the undertaking authorised insurance agent;

(h) that the authorised undertaking, or its representative, shall have the right, without restrictions or limitations, to inspect and audit any records of the enrolled person related to the underwriting agreement at any time during reasonable business hours and shall have the right to make copies or extracts of any such records; and

(i) that the enrolled person shall notify the authorised undertaking either directly or through the undertaking authorised insurance agent immediately upon becoming aware of any matter concerning any business accepted under the underwriting agreement which may, or does, give rise to litigation naming the authorised undertaking, or which may, or does, result in a complaint to the Authority.

Provisions to be excluded from underwriting agreements

7. Every underwriting agreement shall exclude provisions -

(a) for any power to act generally or specifically and to accept service of document, on behalf of the authorised undertaking; and

(b) for any power of delegation of any authority granted to the enrolled person to any other person, firm or undertaking.

Underwriting agreements issued by insurance agents

8. Every enrolled insurance agent authorised to act on behalf of an authorised undertaking shall not issue any underwriting agreement to any enrolled person unless the power to issue underwriting agreements to enrolled persons is expressed in writing in the appointment of insurance agent issued by the authorised undertaking to the insurance agent.

Lloyd's

9. (1) Every binding authority agreement issued by any member of Lloyd's shall be deemed to be an underwriting agreement for the purposes of this Rule only if the binding authority agreement -

(a) is issued in accordance with the regulations of Lloyd's or any law applicable thereto; and

(b) fulfils or complies with the requirements of this Rule.

(2) In the event of any conflict between any requirement under sub-paragraphs (a) and (b) of paragraph (1) of this article, the matter shall be determined by the Authority and the Authority's decision thereon shall be final and conclusive for all purposes of this Rule.

Registration of underwriting agreements

10. (1) Subarticle (3) of article 32 of the Act provides that every enrolled person shall register with the Authority any underwriting agreement made or entered into under the Act in the form and manner as are determined by this Rule.

(2) Subarticle (4) of article 32 of the Act provides that no business of insurance shall be accepted under an underwriting agreement unless the underwriting agreement has first been duly registered with the Authority.

(3) The form and manner an underwriting agreement is to be registered with the Authority are set out in paragraphs (4) and (5) of this article.

(4) Every enrolled person shall complete a registration document in respect of any underwriting agreement made or entered into by the person under the Act providing the information required thereby.

(5) Every registration document is to be delivered to the Authority for registration together with a copy of the underwriting agreement to which it relates. The relevant prescribed fee shall be paid on submission of the documents.

(6) Pursuant to subarticle (5) of article 32 of the Act, the Authority shall determine an application for registration of an underwriting agreement made to it under that article within one month of

receiving the information required to be provided in the registration document.

(7) Where the application for registration is approved and the underwriting agreement registered, a certificate of registration evidencing registration of the underwriting agreement shall be issued by the Authority and delivered to the enrolled person.

(8) Where the application for registration is not approved and the underwriting agreement is not registered, a statement containing the reasons for the refusal of registration of the underwriting agreement shall be issued by the Authority and delivered to the enrolled person.

(9) An enrolled person shall, before making any addition or alteration to any underwriting agreement, submit to the Authority particulars in writing of the proposed addition or alteration for its prior approval and no such addition or alteration shall be made unless the Authority has signified its approval in writing.

(10) For the purposes of this Rule “registration document” means the document set out in the Schedule to this Rule.

Application of the Insurance Business Act, 1998

11. (1) Where an enrolled person makes or enters into an underwriting agreement with an authorised undertaking whose head office is in a country outside Malta, if the underwriting agreement is made or entered into directly with the authorised undertaking, notwithstanding that the undertaking has an authorised agent in Malta, for all intents and purposes of the Insurance Business Act, 1998, the business accepted under the underwriting agreement is deemed to be business carried on by the undertaking in Malta.

(2) Any underwriting agreement made or entered into by an authorised undertaking shall:

(a) in relation to an undertaking authorised under the Insurance Business Act, be limited to the class or classes of insurance the undertaking is authorised to carry on in Malta;

(b) in relation to a European insurance undertaking, be limited to the class or classes of insurance in respect of which the Authority has received notification from the home Member State of the undertaking concerned.

Repeals and Savings

12. (1) Without prejudice to article 4(2) of the Preliminary provisions and saving the provisions of paragraph (2) of this article, Insurance Intermediaries Directive 20 of 1999 - Issuing and Registration of Underwriting Agreements, is hereby repealed.

(2) Every action, directive, instruction, guideline or order whatsoever taken or commenced thereunder, shall continue to be valid and in force, as if such action, directive, instruction, guideline or order were taken or commenced, under this Rule.

SCHEDULE

(Article 10 of the Rule)

Insurance Intermediaries Act, 2006

(Article 32 of the Act)

Registration Document

Application by an enrolled person for registration of an underwriting agreement under the Insurance Intermediaries Act, 2006

Director-General

1. This application for registration of an underwriting agreement under the Insurance Intermediaries Act, 2006 is made by

(full name of insurance broker)

(business address)

2. All relevant particulars are provided hereunder -

A: Particulars of the enrolled person

A1. Company Registration No. /I.D. Card No. -----

B: Particulars of the authorised undertaking

B1. Name of undertaking -----

B2. Registered address -----

B3. Business address (If not the same as B2.)-----

C: Particulars of the underwriting agreement

C1. Issued by:

* **C1.1.** the authorised undertaking

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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* **C1.2.** the enrolled insurance agent

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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** Tick the appropriate box*

C2. If issued by the enrolled insurance agent:

C2.1. Name of insurance agent -----

C2.2. Enrolment No -----

C3. Classes of Insurance

General business -

1. Accident
2. Sickness
3. Land vehicles
4. Railway rolling stock
5. Aircraft
6. Ships
7. Goods in transit
8. Fire and natural forces
9. Other damage to property
10. Motor vehicle liability

11. Aircraft liability
12. Liability for ships
13. General liability
14. Credit
15. Suretyship
16. Miscellaneous financial loss
17. Legal expenses
18. Assistance

D. Particulars of any other underwriting agreements made or entered into by the enrolled person which are currently in force*

D1. Name of authorised undertaking _____

D1.2. Date of registration of underwriting agreement _____

D1.3. Classes of insurance:

General business –

1. Accident
2. Sickness
3. Land vehicles
4. Railway rolling stock
5. Aircraft
6. Ships

7. Goods in transit
8. Fire and natural forces
9. Other damage to property
10. Motor vehicle liability
11. Aircraft liability
12. Liability for ships
13. General liability
14. Credit
15. Suretyship
16. Miscellaneous financial loss
17. Legal expenses
18. Assistance

**If there is insufficient space for a detailed answer, please attach continuation sheets at the back of this document. Please label continuation sheets, clearly indicating the question to which the additional information refers.*

3. A copy of the underwriting agreement is submitted.
4. An application for registration fee of Euro_____ in accordance with regulations governing fees made under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.
5. The particulars provided in this registration document are complete and true to the best of my knowledge, information and belief.

Signed _____

Name in block capitals _____

Title _____

Date _____