

Insurance Rule 17 of 2009

Authorisation to Act as Approved Auditor

Rule pursuant to article 4 of the Act

1. (1) This Insurance Rule on the authorisation to act as approved auditor and the arrangements governing the audit of insurance companies accounts (“this Rule”) is made by the Authority pursuant to article 4 of the Act for the purposes of subarticle (11) of article 21 thereof and article 4 of the Insurance Intermediaries Act, 2006 for the purposes of subarticle (11) of article 28 of the Insurance Intermediaries Act and regulations 3, 4, 6 and 7 of the Insurance Business (Approved Auditor) Regulations, 2000 (“the Regulations”).

(2) This Rule shall come into force on 15th May 2009.

Application

2. This Rule applies to -

(a) an individual person who holds a warrant to act as auditor issued under the Accountancy Profession Act (Cap 281) desirous of applying for an authorisation and, on continuing basis, who holds an authorisation, to act as approved auditor;

(b) a partnership of auditors duly registered under the said Act desirous of applying for an authorisation and, on continuing basis, who holds an authorisation, to act as approved auditor.

Scope

3. The scope of this Rule is to determine -

(a) pursuant to regulation 3 of the Regulations -

(i) the particulars of individual persons who are authorised to act as approved auditor that are to be entered in the Approved Auditors Register; and

(ii) the particulars of partnerships of auditors authorised to act as approved auditor that are to be entered in the Approved Auditors List;

(b) pursuant to regulation 4 of the Regulations, the qualifications of individual persons who hold a warrant to act as auditor under the Accountancy Profession Act, and the requirements of partnerships of auditors duly registered under the said Act, to make an application for the issue of an authorisation to act as approved auditor; the form and manner in which such application shall be made; and the information required to be provided with the application by the applicants;

(c) pursuant to regulation 6 of the Regulations, the circumstances leading to the suspension or revocation of, and the manner of suspending or revoking, an authorisation issued or held under the Regulations;

(d) pursuant to regulation 7 of the Regulations, the arrangements governing the audit of insurance companies accounts; and

(e) pursuant to subarticle (11) of article 21 of the Act and subarticle (11) of article 28 of the Insurance Intermediaries Act, 2006 in the case of a company whose head office is in a country outside Malta, such alternative arrangements to the provisions of that subarticle with respect to the appointment of an approved auditor by such company.

Definitions

4. In this Rule, unless the context otherwise requires,

“insurance licence holder” means a company authorised under article 7 of the Act or a person enrolled in the Agents List, Managers List or Brokers List under the Insurance Intermediaries Act, 2006, unless otherwise specified.

“insurance companies accounts” means the accounts of companies authorised under the Act to carry on business of insurance, or of persons enrolled in the Agents List, Managers List or Brokers List under the Insurance Intermediaries Act, 2006 and carrying out insurance intermediaries activities.

Particulars of individuals or partnerships to be entered in the Approved Auditors Register or the Approved Auditors List

5. In relation to the registration of individuals or enrolment of partnerships authorised to act as approved auditor, the other particulars to be entered in the Approved Auditors Register and the Approved Auditors List as determined by this Rule for the purposes of regulation 3 of the Regulations are -

(a) in relation to the registration of individuals, those set out in the First Schedule to this Rule; and

(b) in relation to the enrolment of partnerships, those set out in the Second Schedule to this Rule.

Qualifications or requirements of applicants for an authorisation to act as approved auditor

6. (1) The qualifications or requirements of applicants to act as approved auditor as determined by this Rule for the purposes of regulation 4 of the Regulations are those respectively mentioned in paragraphs (2) and (3) of this article.

(2) An applicant who is an individual who holds a warrant to act as auditor under the Accountancy Profession Act shall satisfy the Authority as to the qualifications referred to in paragraph (1) of this article only if -

(a) the applicant has suitable post-qualification experience in the insurance companies accounts and / or the audit of insurance companies accounts for not less than 3 years during the last 7 years or 5 years during the last 10 years; and

(b) the applicant has successfully concluded a course on the insurance companies accounts and / or the audit of insurance companies accounts organised by a local or foreign firm, body or institution recognised by the Authority for the purposes of this article,

and, in every case, the Authority is satisfied that the applicant has a sound knowledge of the provisions of the insurance legislation, regulations and rules for the time being in force particularly those provisions which require compliance by an insurance licence holder and

certification by the appointed auditor of the insurance licence holder that the insurance company or enrolled person has complied with those provisions.

(3) An applicant who is a partnership of auditors shall satisfy the Authority as to the requirements referred to in paragraph (1) of this article only if the applicant has at all times two or more partners, or not less than one partner and one employee, of the partnership, who hold an authorisation to act as approved auditor issued under the Regulations.

(4) The manner in which an applicant shall make an application to the Authority for an authorisation to act as approved auditor as determined by this Rule for the purposes of regulation 4 of the Regulations is -

(a) in the case of an individual, in the application as set out in the Third Schedule to this Rule; and

(b) in the case of a partnership of auditors, in the application as set out in the Fourth Schedule to this Rule,

and, in every case, providing the information required therein.

Determination of an application for an authorisation to act as approved auditor

7. Subject to the provisions of the Act and the Regulations, the Authority may, under regulation 5 of the Regulations, grant an applicant an authorisation to act as approved auditor only if the applicant satisfies the qualifications or requirements determined for such purpose by article 6 of this Rule.

Applications for an authorisation to be determined within a specified period

8. The Authority shall determine an application for an authorisation to act as approved auditor under the Regulations in accordance with this Rule within three months of receiving the information required to be provided under this Rule; and if it refuses to issue the authorisation it shall inform the applicant in writing of the reasons for the refusal.

Circumstances leading to suspension or revocation of an authorisation

9. The Authority may, at any time, suspend or revoke an authorisation issued or held under the Regulations in accordance with the provisions of this Rule if -

(a) the person, in applying for the authorisation, has given any false or incorrect information which was material to the application or has obtained otherwise the authorisation by fraud or misrepresentation;

(b) the person has failed to fulfil or comply with the requirements prescribed by the Regulations or determined by this Rule or any of the terms, conditions or limitations attached to the authorisation;

(c) the person has shown incompetence in the conduct of his responsibilities under the authorisation or has in any manner acted fraudulently, or dishonestly or otherwise in such manner as to cease to be trustworthy;

(d) the warrant to act as auditor issued to the person under the Accountancy Profession Act is suspended or revoked under that Act; or the registration of a partnership of auditors under that Act is suspended or cancelled thereunder;

(e) at any time, in the case of a partnership of auditors, the partnership no longer has any two partners, or any one partner and one employee, who hold an authorisation to act as approved auditor;

(f) the person who holds an appointment to audit insurance companies accounts is no longer covered by an indemnity insurance contract for the amount specified in paragraph (2) or (3), as the case may be, of article 11 of this Rule; and

(g) the person is disciplined or convicted under any provision of the Regulations.

Manner leading to suspension or revocation of an authorisation

10. (1) Without prejudice to any other action which the Authority may consider appropriate under any provision of the Act or the

Regulations, where, in the circumstances specified in article 9 of this Rule, the Authority intends to suspend or revoke an authorisation issued or held under the Regulations in accordance with this Rule, it shall give the person concerned notice in writing specifying the reasons for its intention to do so.

(2) Every notice given under paragraph (1) of this article shall state that the person concerned may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight hours and not longer than fifteen days), make representations in writing to the Authority giving reasons why the authorisation should not be suspended or revoked and the Authority shall consider any representations so made before arriving at a final decision.

(3) The Authority shall notify in writing its final decision to the person concerned and, where the authorisation is revoked, the notification shall also state that the name of the person concerned has been struck off the Approved Auditors Register or the Approved Auditors List, as the case may be.

Arrangements governing the audit of insurance companies accounts

11. (1) The arrangements governing the audit of insurance companies accounts as determined by this Rule for the purposes of regulation 7 of the Regulations are those set out in the following paragraphs of this article.

(2) The audit of accounts of a company authorised under article 7 of the Act shall be carried out by a partnership of auditors which -

(a) holds an authorisation to act as approved auditor;

(b) is the appointed auditor of the company;

(c) has the professional skills and resources to carry out such auditing;

(d) (i) is a member of an international firm of accountants and auditors of repute acceptable to the Authority provided that, the Authority may require the audited financial statements of the company to be issued over the names of both the partnership and member;

(ii) is a correspondent of an international firm of accountants and auditors of repute acceptable to the Authority provided that the audited financial statements of the company are issued over the names of both the partnership and correspondent; and for the purpose of this paragraph, “correspondent”, in relation to an international firm of accountants and auditors, includes any type of relationship between the partnership and the firm other than membership;

(e) has at all times in its favour, during the tenure of appointment, an indemnity insurance cover acceptable to the Authority satisfying the conditions set out in paragraph (4) of this article for an amount of not less than 1,165,000 Euro.

(3) The audit of accounts of a person enrolled under article 13 of the Insurance Intermediaries Act, 2006 shall be carried out by an individual person or partnership of auditors who -

(a) in every case, holds an authorisation to act as approved auditor;

(b) in every case, is the appointed auditor of the enrolled person;

(c) in the case of an individual, the individual satisfies the Authority and the enrolled person that such person can, at all times, during the tenure of appointment, be substituted with any other individual who holds an authorisation to act as approved auditor to ensure that, in the event of his indisposition to carry out his duties as the appointed auditor of the enrolled person due to incapacity, sickness, holiday or any other absence, such other individual can, with the consent of the enrolled person, act as the appointed auditor of the enrolled person for the purpose of the Insurance Intermediaries Act, 2006, as the case may be, during the period of indisposition;

(d) the person has at all times in his favour, during the tenure of appointment, an indemnity insurance cover acceptable to the Authority satisfying the conditions set out in paragraph (4) of this article for an amount of not less than 582, 500 Euro.

(4) Any indemnity insurance contract which a person who is the appointed auditor of an insurance licence holder is required to have in its favour pursuant to paragraph (2) or (3) of this article is acceptable to the Authority only if -

(a) the indemnity insurance contract is a contract indemnifying the person against any liability it, or any person employed by it or otherwise acting for it, may incur as a result of any negligent act, error or omission in the conduct of its business as appointed auditor; and any excess clause in the contract shall be for a sum not exceeding 0.5 per centum of the limit of indemnity;

(b) the indemnity insurance contract is a contract held in addition to any other indemnity insurance contract which the person may have or be required to have in its favour with respect to any other activity which the person carries out or is required to carry out pursuant to any other law other than the Accountancy Profession Act; and

(c) the amount of any indemnity insurance contract held or required to be held by the person by or under the Accountancy Profession Act may form part of the amount specified in paragraph (2) or (3) of this article, as the case may be, but, in so far as any of the conditions as set out in this paragraph with respect to the indemnity insurance contract determined by this Rule is inconsistent with the conditions as set out with respect to the indemnity insurance contract provided by or under the Accountancy Profession Act, the conditions as set out in this paragraph shall prevail, and the conditions as set out by or under the Accountancy Profession Act shall, to the extent of the inconsistency, not apply to the indemnity insurance contract determined by this Rule.

Appointment of approved auditor by companies whose head office is in a country outside Malta

12. (1) With regard to the appointment of a person to act as approved auditor of a company whose head office is in a country outside Malta, the arrangements set out in paragraph (2) of this article, made pursuant to, and for the purpose of, subarticle (11) of article 21 of the Act and subarticle (11) of article 28 of the Insurance Intermediaries Act, shall prevail and the provisions of this Rule in that respect shall, to the extent of any inconsistency, not apply to any such company.

(2) The arrangements referred to in paragraph (1) of this article are that the overseas appointed auditor of the company is a person who is -

(a) an international firm of accountants and auditors of repute acceptable to the Authority; and

(b) approved or recognised for the purposes of the audit of insurance companies accounts by the overseas competent authority of the country of the head office of the company.

Repeals and Savings

13. (1) Saving the provisions of paragraph (2) of this article, Insurance Directive 17 of 2000 – Authorisation to Act as Approved Auditor, 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 whatsoever were taken or commenced under this Rule.

FIRST SCHEDULE

(Article 5)

Insurance Business (Approved Auditor) Regulations, 2000

(Regulation 3)

The Approved Auditors Register

Registration of Individual Persons in the Approved Auditors Register

Particulars to be provided

A: Personal details

- A1. Full name (*surname/forename/s including title and name by which commonly known*).
- A2. Any previous names by which known.
- A3. Identity Card number or Passport number.

B: Warrant to act as accountant and auditor issued under the Accountancy Profession Act (Cap 281)

- B1. Date of issue of warrant (*day/ month/year*).
- B2. Warrant number.

C: Place of business

- C1. Address of principal place of business.
- C2. Business telephone number/s.
- C3. Business fax number/s.
- C4. Business e-mail address/es.

D: Authorisation to act as approved auditor

D1. Date of issue of authorisation (*day/month/year*).

D2. Registered number.

SECOND SCHEDULE

(Article 5)

Insurance Business (Approved Auditor) Regulations, 2000

(Regulation 3)

The Approved Auditors List

Enrolment of Partnerships of Auditors in the Approved Auditors List

Particulars to be provided

A: Partnership details

- A1. Name of partnership.
- A2. Name of partners.

B: Registration under the Accountancy Profession Act (Cap 281)

- B1. Date of registration (*day/month/year*).
- B2. Registration number.

C: Overseas relations

- C1. Status (*that is to say whether member or correspondent*)
- C2. Name of firm.
- C3. Principal overseas liaison office.
- C4. Address of overseas principal liaison office.
- C5. Overseas business telephone number/s.
- C6. Overseas business fax number/s.
- C7. Overseas e-mail address/es.

D: Holder/s of authorisation to act as approved auditor

- D1. Name/s of holder/s of authorisation.
- D2. Date/s of issue of authorisation (*day, month, year*).
- D3. Registration number/s.
- D4. Status of holder/s (*that is to say whether partner or employee of the partnership*).

E: Place of business

- E1. Address of principal place of business.
- E2. Business telephone number/s.
- E3. Business fax number/s.
- E4. Business e-mail address/es.

F: Authorisation to act as approved auditor

- F1. Date of issue of authorisation (*day/month/year*).
- F2. Enrolled number.

T H I R D S C H E D U L E

(Article 6)

Insurance Business (Approved Auditor) Regulations, 2000

(Regulation 4)

Application by holders of a warrant to act as accountant and auditor for an authorisation to act as approved auditor under the Insurance Business Act, 1998

Director-General
Malta Financial Services Authority

I hereby apply for the issue of an authorisation to act as approved auditor under the Insurance Business Act, 1998.

An application for authorisation fee in terms of the Insurance Business (Fees) Regulations, 1999 is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

A: Personal details

A1. Surname:- _____

Forename/s:- _____

Title:- _____

**B: Warrant to act as accountant
and auditor under the
Accountancy Profession Act
(Cap 281)** _____

B1. Date of issue of warrant
(day/month/year):- _____

B2. Warrant number:- _____

C: Place of business

C1. Address of principal place of business:- _____

C2. Business telephone number/s:- _____

C3. Business fax number/s:- _____

C4. Business e-mail address/es:- _____

D: Indemnity insurance contract

D1. Amount of cover:- _____

D2. Excess:- _____

D3. Period of cover (*both dates inclusive*):- _____

- D4. Details of any indemnity insurance (1) _____
contracts relating to any other
activities carried out under any (2) _____
other law or otherwise
(3) _____
(4) _____

E: Documentation

Please provide the following documentation:

1. A copy of the warrant to act as accountant and auditor under the Accountancy Profession Act, (Cap. 281).
2. The Personal Questionnaire attached to Insurance Rule 15 of 2008.
3. A precise description of the responsibilities in previous and current engagements during the last 10 years (*from the most recent to most dated*) indicating the extent to which this experience is relevant to business of insurance.
4. Evidence that the person in respect of who/which the application is being submitted has successfully completed a course on the insurance companies accounts and/or the audit of insurance companies accounts organised by a local or foreign firm, body or institution recognised by the Authority.
5. A quotation of a policy of professional indemnity insurance which should conform with the requirements of this Rule.
6. Any other documents mentioned in any article of this application.

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 Authority to contact any or all of the above-named or any other person considered by the 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 Authority in writing of any material change relevant to this application.

Signed _____
(name of applicant)

Date _____

Notes:

- The **original** document or a **photocopy** of the **original** document is to be produced. Where a **photocopy** of a document is produced, the Authority may require the applicant to produce the **original** of that document.

FOURTH SCHEDULE

(Article 6)

Insurance Business (Approved Auditor) Regulations, 2000

(Regulation 4)

Application by partnerships of auditors for an authorisation to act as approved auditor under the Insurance Business Act, 1998

Director-General
Malta Financial Services Authority

A partnership of auditors of which I am a partner hereby applies for the issue of an authorisation to act as approved auditor under the Insurance Business Act, 1998.

An application for authorisation fee in terms of the Insurance Business (Fees) Regulations, 1999 is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

A: Partnership details

A1. Name:- _____

A2. Registration number:- _____

A3. Name of partners:- (1) _____

(2) _____

**B: Registration under the
Accountancy Profession Act
(Cap. 281)**

B1. Date of registration
(day/month/year):- _____

B2. Registration number:- _____

C: Overseas relations

C1. Status (*that is to say whether
member or correspondents*):- _____

C2. Name of firm:- _____

C3. Principal overseas liaison
office:- _____

C4. Full address of overseas
principal liaison office:- _____

C5. Overseas business telephone number/s:- _____

C6. Overseas business fax number/s:- _____

C7. Overseas business e-mail address/es:- _____

D: Holder/s of authorisation to act as approved auditor

D1. Name/s of holder/s of authorisation:-
(1) _____
(2) _____

D2. Date/s of issue of authorisation (day/month/year):-
(1) _____
(2) _____

D3. Registration number/s:-
(1) _____
(2) _____

D4. Status of holder/s:- (partner or employee)
(1) _____
(2) _____

E: Place of business

- E1. Address of principal place of business:-

- E2. Business telephone number/s:- _____
- E3. Business fax number/s:- _____
- E4. Business e-mail address/es:- _____

F: Indemnity insurance contract

- F1. Amount of cover:- _____
- F2. Excess:- _____
- F3. Period of cover (*both dates inclusive*):- _____
- F4. Details of any indemnity insurance contracts relating to any other activities carried out under any other law or otherwise
- (1) _____
- (2) _____
- (3) _____
- (4) _____

G: Documentation

Please provide the following documentation:

1. A quotation of a policy of professional indemnity insurance which should conform with the requirements of this Rule.
2. Evidence to confirm that the firm is a member or correspondent of an international firm of accountants.
3. Any other documents mentioned in any article of this application.

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 Authority to contact any or all of the above-named or any other person considered by the 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 Authority in writing of any material change relevant to this application.

Signed _____ Date _____
(name of applicant and designation)

Note:

- The **original** document or a **photocopy** of the **original** document is to be produced. Where a **photocopy** of a document is produced, the Authority may require the applicant to produce the **original** of that document.