

Insurance Rule 5 of 2008

Mutual Associations

Rule pursuant to article 6 of the Act

1. (1) This Insurance Rule on Mutual Associations which are Mutual Associations acceptable to the Authority as mutual non-profit associations (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 6 of the Act.

(2) This Rule shall come into force on the 1st February 2008.

Application

2. (1) This Rule applies to a Mutual Association whose head office is situated in a non-EEA State satisfying the requirements of article 4 of this Rule desirous of applying for permit to carry on and, on continuing basis, as a Mutual Association as aforesaid holding permit to carry on, business of insurance.

(2) This Rule shall apply mutatis mutandis to a Protection and Indemnity Club issued with a permit in terms of Insurance Directive 5 of 1999 made pursuant to article 6 of the Act to carry on business as a Protection and Indemnity Club.

(3) For the purposes of paragraph (1) of this article, a “non-EEA State” means a State which is not an EEA State as defined in subarticle (1) of article 2 of the Act.

Scope

3. The scope of this Rule is to determine the requirements that a Mutual Association is to comply with or satisfy in order that the Association -

(a) may be acceptable to the Authority as a mutual non-profit association so that the provisions of subarticles (1) and (2) of article 6 of the Act shall not apply to it;

(b) may obtain permit from the Authority to carry on business of insurance.

Mutual Associations acceptable to the Authority as mutual non-profit associations

4. (1) A Mutual Association is a Mutual Association within the meaning, and for the purposes, of subarticle (3) of article 6 of the Act only if the Association fulfils, to the satisfaction of the Authority, the requirements set out hereunder -

(a) the articles of association of the Association contain provisions for calling up additional contributions or reducing their benefits or, in the case of long term business, claiming assistance from other persons who have undertaken to provide it;

(b) the business of the Association does not cover liability risks, unless such risks constitute ancillary cover within the meaning of subarticles (2), (4) and (5) of article 5 of the Act, or credit and suretyship risks;

(c) the annual contribution income for business carried on by the Association in or from Malta does not exceed Euro 5 million or an equivalent amount in any other currency; and

(d) at least half of the contribution income from business carried on by the Association comes from persons who are members of the Mutual Association.

Granting of permits to Mutual Associations to carry on business of insurance

5. (1) Notwithstanding that a Mutual Association may fulfil the requirements of article 4 of this Rule, the Authority shall not grant permit to the Mutual Association to carry on business of insurance, nor shall the Authority allow the Association to hold permit granted, unless it is satisfied that the Association -

(a) is permitted in the country where its head office is situated to carry on the business which formed the object of the application;

(b) is a Mutual Association of good repute; and

(c) has complied with the provisions of article 12 of the Act with respect to the appointment of a general representative.

(2) In its application for permit to carry on business of insurance, a Mutual Association shall notify the Authority in writing of its financial year; and where the Association alters its financial year it shall forthwith notify the Authority in writing of such change.

(3) A Mutual Association may submit an application for permit to carry on business of insurance under the Act through a person enrolled in the Managers List or Brokers List under the Insurance Intermediaries Act, 2006; and, during the continuance of the permit, the person enrolled in the Managers List or Brokers List shall ensure that the Mutual Association satisfies at all times the provisions of the Act required to be satisfied by such Associations, the requirements of this Rule and the conditions (if any) of the permit.

Submission of annual statements and payment of continuance of permit fee

6. Every Mutual Association holding permit under the Act to carry on business of insurance shall -

(a) not later than six months from the closing of its financial year, or at any other time as may exceptionally be authorised in writing by the Authority, forward to the Authority -

(i) a copy of its audited financial statements drawn up in accordance with the provisions of the law of the country where the head office of the Association is situated governing the financial statements of such associations;

(ii) a certificate signed by the overseas regulatory authority of the country of its head office stating that the Mutual Association concerned has, in respect of the preceding financial year, complied with the provisions of the law applicable to it;

(b) pay to the Authority the continuance of permit fee in accordance with regulations governing fees made under the Act.

Repeals and Savings

7. (1) Saving the provisions of paragraph (2) of this article, Insurance Directive 5 of 2003 – Mutual Associations, is hereby repealed.

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