

Insurance Rule 6 of 2011

Schemes of Operations Relating to Business of Insurance

Rule pursuant to article 8 of the Act

1. (1) This Insurance Rule on the schemes of operations relating to long term business and general business to be carried on in the case of companies desirous of carrying on business of insurance (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 8 of the Act.

(2) This Rule shall come into force on the 1st March 2011.

Application

2. (1) This Rule applies to -

(a) a company desirous of applying for authorisation to carry on and, on continuing basis, a company authorised to carry on, business of insurance;

(b) a company authorised to carry on business of insurance desirous of applying for inclusion, in the authorisation, of new classes of business of insurance;

(c) a company authorised under the Act desirous of applying for authorisation to convert into a protected cell company or transform into an incorporated cell company or an incorporated cell;

(d) a protected cell company authorised under the Act desirous of applying for the approval of a protected cell;

(e) a protected cell company authorised under the Act, having no protected cells desirous of applying for approval of a transformation into an incorporated cell company;

(f) a protected cell company authorised under the Act, having one or more protected cells desirous of applying for approval of a division into an incorporated cell company and one or more incorporated cells;

(g) an incorporated cell company authorised under the Act, but having no incorporated cells, that desires to apply for approval for a transformation into a protected cell company;

(h) a company desirous of applying for authorisation as an incorporated cell in an incorporated cell company authorised under the Act;

(i) an incorporated cell company or an incorporated cell for approval for a transformation into a non-cellular company.

(2) For the purposes of this Rule:

(a) “protected cell company” means a cell company in terms of the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2010;

(b) “ protected cell” means a cell in terms of the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2010;

(c) “non-cellular company” shall have the same meaning as is assigned to it by the Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations, 2010.

Scope

3. The scope of this Rule is to determine –

(a) the particulars or proof to be included in schemes of operations required to be submitted under the Act relating to the kind of business of insurance which applicants are desirous to carry on;

(b) the manner in which applicants shall make application to the Authority to carry on business of insurance in or from Malta.

Scheme of operations

4. (1) Sub-paragraph (e) of paragraph (1) of article 8 of the Act requires an applicant to submit to the Authority a scheme of operations relating to the kind of business the applicant desires to carry on which includes the particulars or proof determined by this Rule.

(2) Subject to article 6 of this Rule, any scheme of operations required to be submitted by an applicant shall -

(a) in the case of an applicant which is a company whose head office is in Malta include the particulars or proof concerning matters set out in article 5 of this Rule;

(b) in the case of an applicant which is a company whose head office is in a country outside Malta include:

(i) the particulars or proof concerning matters set out in article 5 of this Rule, in so far as they are applicable to the proposed branch or agency; and

(ii) a statement from the overseas regulatory authority in the country in which the applicant has its head office showing the classes of business of insurance which the applicant is authorised to carry on in that country and declaring that the company has the required margin of solvency in accordance with the law of that country governing business of insurance.

Particulars or proof to be included in a scheme of operations

5. Any scheme of operations required to be submitted by the applicant shall include the particulars or proof contained in the following paragraphs on the preparation of a scheme of operations by a company applying for authorisation to carry on business of insurance.

5A. Scope and background

A. General content of a scheme of operations

A scheme of operations must:

(a) describe clearly the applicant's business strategy, including underwriting, general pricing and market penetration strategies;

(b) include financial projections with appropriate scenarios, including optimistic and pessimistic scenarios;

(c) as at the end of each financial year which falls within the period to which the scheme of operations relates, describe the assumptions which underlie those forecasts, the reasons for adopting those assumptions and the accounting policies on which the projections are based;

(d) be accompanied by a report of an approved auditor or the company's auditor, as the case may be, on the adequacy of the company's business plan and that it has been properly prepared on the basis of the assumptions stated:

Provided that, in the case of a company which is managed by an insurance manager, the said report may be drawn up by the company's manager;

(e) in the case of long term business be accompanied also by a report of the company's actuary, appointed for the purposes of article 22 of the Act, on the adequacy of the company's policy of reserving; and

(f) in each case, the scheme of operations shall be signed by a person who holds a warrant of a certified public accountant under the Accountancy Profession Act (Cap.281) or holds professional qualifications of similar standing of an institute of repute recognised by the Authority.

5B. Detailed scheme of operations

A scheme of operations should include information detailed under the following headings:

B1. Background to the applicant and business planning

The scheme of operations should include the following:

(a) a description of the nature of the business of insurance to be carried on, including major risks or commitments which the company proposes to cover, and the classes of business to be underwritten including whether the business is direct business, or both direct business and reinsurance, or restricted to reinsurance only;

(b) a description, in narrative and tabular format, of the past history of the book of business;

(c) if the applicant is a member of a group of companies, a description of the group and the company's place within it, including a corporate structure chart ("family tree") with applicable shareholdings, showing the position of the company within the group; and

(d) a description of the applicant and the significant activities of its group.

B2. Target markets and marketing plan

A description of the proposed sources of business of insurance (e.g. insurance brokers, agents, direct selling, tied insurance intermediaries and branch offices) and the approximate percentage expected from each source.

B3. Financial projections and resources

Financial projections covering the items listed below, for each of the first three financial years following authorisation:

(1) A forecast statement of comprehensive income, broken down into a technical account and a non-technical account. This should include as a minimum the following:

(a) estimates of premiums or contributions in respect of direct business and reinsurance acceptances (gross and net of

reinsurance cessions) analysed by class and broken down by geographical territory;

(b) investment return;

(c) estimates of claims in respect of direct business and reinsurance acceptances (gross and net of reinsurance recoveries) analysed by class and broken down by geographical territory;

(d) expenses including commissions;

(e) other charges and income;

(f) taxation;

(g) dividends paid and accrued.

(2) A forecast statement of financial position. Adjustments to amounts to reflect the asset valuation rules should be made in the statement of solvency (refer to sub-paragraph (6) of this paragraph). The balance sheet should show, as a minimum, the following details:

(a) investments analysed as follows:

(i) type of investment (e.g. government bonds, debt securities, equity and others);

(ii) issuer of instrument; and

(iii) whether the investment is listed and if so where listed.

(b) other assets separately identifying cash at bank and in hand;

(c) capital and reserves analysed into called up share capital or equivalent funds, share premium account, revaluation reserve, other reserves and profit and loss account. Applicants should refer to Insurance Rule 1 of 2007 for the amount of the value of own funds and the components making up the own funds;

(d) subordinated liabilities;

(e) technical or mathematical provisions gross and net of reinsurance (or retrocession), analysed by class and where applicable separately identifying outstanding claims, IBNR, unearned premiums, additional provision for unexpired risks and equalisation reserves. The applicant should explain the methods used in arriving at the amount of technical or mathematical provisions. Regard should be given to Part X – Determination of Liabilities, of the Insurance Business (Assets and Liabilities) Regulations, 2007 (“the Regulations”). Supporting documentation explaining the adequacy of the provisions is to be provided;

(f) other liabilities.

(3) A forecast statement of changes in equity.

(4) A forecast statement of cash flows.

(5) A forecast statement of the financial resources intended to cover technical or mathematical provisions.

(6) A forecast statement of solvency, identifying clearly:

(a) the computation of the required margin of solvency;

(b) (i) in the case of an insurer, the valuation and admissibility of assets covering technical provisions (valued in accordance with the Regulations); or

(ii) in the case of reinsurer, the valuation of assets covering technical provisions (valued in accordance with the Regulations); and

(c) surplus assets covering other liabilities and the required margin of solvency.

B4. Information related specifically to long term business

A statement:

(a) showing for each of the first three financial years following authorisation for each type of contract or treaty broken down by geographical territory:

(i) the number of contracts or treaties expected to be issued;

(ii) the technical bases that the actuary who will be appointed for the purposes of article 22 of the Act proposes to employ for each class of business, including the bases needed for calculating premium rates and mathematical reserves;

(iii) the total sums assured or amounts of annuity per annum.

(b) concerning the method of distributing profits between policyholders and shareholders.

B5. Additional information

(1) Projections taking into account future capital expenditure (e.g. for purchase of fixed assets).

(2) A breakdown of forecast expenses, including an estimate of the costs of installing the administrative services and organisation for securing business and the financial resources intended to cover those costs, and, in relation to general business class 18, the resources available for providing the assistance.

(3) Estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions.

(4) A description of the types of assets (e.g. state securities, bank deposits) that will represent the minimum guarantee fund.

In general, the Authority will need to be satisfied that the applicant has enough financial resources to support the business described in the application and to provide the required margin of solvency needed throughout the three years after authorisation is granted and thereafter.

B6. Investment Strategy

(1) A description of the applicant's proposed investment strategy, including details of the diversification, currency and types of investments which are expected to represent the insurance or reinsurance funds, the estimated proportion which will be represented by each type of investment and the arrangements for the maintenance of adequate liquidity.

(2) A rationale for the chosen investment methodology, with full details of any proposed use of derivatives or other non-standard investments. Although details of the proposed investments are only required for insurance or reinsurance funds, the applicant should also provide a summary of its investment strategy for investments representing shareholders' funds.

(3) The applicant should have an investment committee. The Authority would expect that the investment committee would include at least one independent non-executive person with adequate qualifications/experience in investment management. The investment committee should formulate the company's investment policy and issue guidelines to management. The main objective of the investment committee is to secure the safety, yield and marketability of the company's investments, which the committee should also ensure are diversified and adequately spread in accordance with the Regulations.

(4) For the purposes of the use of investments, applicants are asked to consult the guidelines listed in Appendix III dealing with systems and controls on the use of investments by authorised companies carrying on general business or long term business of insurance. The guidelines contained in Appendix III apply on a continuing basis to the company authorised to carry on business of insurance.

B7. Personnel and internal controls

(1) A corporate structure chart and a description of the proposed apportionment of significant responsibilities between the applicant's management team. The structure chart should set out the management structure, responsibilities and reporting lines.

(2) In general the quality, skills and experience of the management required in an insurance or reinsurance company will depend on, among other things, the type and volume of business it expects to undertake. The applicant needs to demonstrate that adequate staff with relevant experience are available at all levels.

(3) The Authority will consider the collective suitability of the board. The Authority would usually expect that the board is composed of persons who as a group, have the required diversity of knowledge, judgement and experience to properly complete their tasks. This requires the inclusion of a number of non-executive directors (including independent non-executives). The exact composition and balance on a board will depend on the circumstances and business of each company. Companies should ensure a balance such that no individuals or small groups of individuals can dominate the board's decision-making.

(4) A summary of the arrangements by which systems and controls will be established and maintained in the organisation, including an explanation of how these will be overseen. The business plan should set out the capacity of the applicant's systems and controls to monitor and control all significant aspects of the applicant's operations, and should include (but not be restricted to):

(a) details of the controls over underwriting, reinsurance (or retrocession), claims, investments and IT, including details of segregation of duties, acceptance controls and levels and monitoring of risk aggregation;

(b) details of internal committees (e.g. audit committee) and their proposed terms of reference;

(c) details of persons responsible for financial reporting, including preparation of regulatory returns;

(d) staffing levels in each area;

(e) details of proposed staff training; and

(f) capability of the computer system.

(5) An outline of reports and management information that will be provided regularly to the person responsible for the

apportionment and oversight function and to the board and executive management.

(6) Details of any disaster recovery plans that it will put in place to ensure business continuity.

B8. Business Strategy

(1) A summary of the applicant's strategy for managing the business, identifying the risks that the applicant considers could affect the success of the business. The applicant is to state whether the risks are considered to be high, medium or low risk and say how the applicant will address them.

(2) Risks may include, but not be restricted to, the following:

(a) underwriting risk (that is, the risk of loss, or of adverse change in the value of insurance liabilities, due to inadequate pricing and provisioning assumptions);

(b) market risk (that is, the risk of loss, or of adverse change in the financial situation, resulting, directly or indirectly, from fluctuations in the level and in the volatility of market prices of assets, liabilities and financial instruments);

(c) credit risk (that is, the risk of loss, or of adverse change in the financial situation, resulting from the fluctuations in the credit standing of issuers of securities, counterparties and any debtors to which insurance or reinsurance companies are exposed, in the form of counterparty default risk, or spread risk or market risk concentrations);

(d) operational risk (that is, the risk of loss arising from inadequate or failed internal processes, or from personnel and systems, or from external events);

(e) liquidity risk (that is, the risk that insurance or reinsurance companies are unable to realise investments and other assets in order to settle their financial obligations when they fall due);

(f) concentration risk (that is, all risk exposures with a loss potential which is large enough to threaten the solvency or the financial position of insurance or reinsurance companies).

B9. Outsourcing and agreements with third parties

(1) A description of any material outsourcing or sub-contracting arrangements, in particular any outsourcing of underwriting, claims and investment management, including:

(a) background information concerning the third party to whom functions will be outsourced;

(b) details of functions which will be outsourced;

(c) details of those persons in the company who will be responsible for overseeing such delegations, including details as to how the outsourcing will be monitored and controlled; and

(d) drafts of any agreements with brokers and agents, clearly explaining any commission arrangements.

(2) All outsourcing or sub-contracting agreements should be subject to a formal and comprehensive written agreement covering at least the responsibilities of both parties and a qualitative description of the services. Drafts of any outsourcing or sub-contracting agreements with persons who will manage any significant part of the business of the applicant are to be submitted to the Authority. The agreement should provide for access by the Authority to relevant data held by the outsourcing service provider or sub-contractor and the right for the Authority to conduct on site inspections at the premises of an outsourcing service provider or sub-contractor should be incorporated in the outsourcing or sub-contracting agreements.

B10. Reinsurance or Retrocession

(1) A full explanation of the proposed reinsurance (or retrocession) strategy and the arrangements proposed to be put in place at authorisation. It may be appropriate for this to be

represented graphically, especially for more complex programmes, and should include the following:

(a) details of the applicant's maximum retention per risk or event after all reinsurance (or retrocession) ceded, by principal category of business undertaken;

(b) details of the principal reinsurers (or retrocessionaires), including name, address and country of incorporation;

(c) the description relating the reinsurance back to the original business being carried on by the applicant as described in the business plan;

(d) where a significant proportion of the programme is to be ceded to a single reinsurance company (or retrocessionaires) or group, additional information should be given as to why this is considered to be appropriate, including details of the security provided and the financial adequacy; and

(e) any statistics or risk profiles showing the maximum catastrophe exposure for the applicant and the net retained exposure.

(2) Provide copies or drafts of reinsurance treaty cover notes covering business to be written by the applicant.

Notes on particulars or proof

6. In the case of an applicant which, at the time of submitting the application, holds authorisation to carry on business of insurance the particulars or proof required by article 5 of this Rule are only in respect of the classes of business for which new authorisation is sought.

Manner of making application for authorisation to carry on business of insurance

7. The manner in which a company shall apply to the Authority for authorisation to carry on the business of insurance shall be the following -

(a) by application as set out in the First Schedule:

(i) in the case of a company whose head office is in Malta; or

(ii) in the case of an incorporated cell company having no incorporated cells to transform itself into a non-cellular company; or

(iii) in the case of an incorporated cell to transform itself into a non-cellular company;

(b) by application as set out in the Second Schedule in the case of a company whose head office is in a country outside Malta;

(c) by application as set out in the Third Schedule:

(i) in the case of a company for authorisation to carry on business of insurance as a protected cell company;

(ii) in the case of a non-cellular company to convert into a protected cell company;

(iii) in the case of an incorporated cell company having no incorporated cells to be transformed into a protected cell company;

(d) by application as set out in the Fourth Schedule for the creation of one or more protected cells;

(e) by application as set out in the Fifth Schedule:

(i) in the case of a company for authorisation to carry on business of insurance as an incorporated cell company;

(ii) in the case of a non-cellular company to transform into an incorporated cell company;

(iii) in the case of a protected cell company having no protected cells to be transformed into an incorporated cell company;

(iv) in the case of a protected cell company having one or more cells seeking to be divided into an incorporated company and one or more cells. In this case, each cell shall apply for authorisation by an application as set out in the Sixth Schedule.

(f) by application as set out in the Sixth Schedule:

(i) for the creation of one or more incorporated cells of an incorporated cell company;

(ii) for the transformation of a non-cellular company into an incorporated cell.

Repeals and Savings

8. (1) Saving the provisions of paragraph (2) of this article, Insurance Rule 6 of 2007 – Schemes of Operations Relating to Business of Insurance 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 7 of the Rule)

Insurance Business Act, 1998

(Article 8 of the Act)

Application by a company whose head office is in Malta for authorisation to carry on business of insurance

Director-General
Malta Financial Services Authority

I hereby apply for the issue of an authorisation to the company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998.

An application for authorisation fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

A: Company details (Note 1)

A1. Name of company:- _____

A2. Date of registration under the Companies Act, 1995
(*day/month/year*):- _____

A3. Registration number:- _____

A4. Address of registered office including Post Code:-

A5. Name of company secretary
(refer to Note 3):- _____

A6. Name of approved auditors:- _____

A7. Name of the company's
principal bankers:- _____

A7.1. Address including Post
Code:-

A7.2. Business telephone
number/s:- _____

A7.3. Business fax number/s:- _____

A7.4. Business e-mail address/es:- _____

A8. Name of the company's legal
consultants:- _____

A8.1. Address including Post
Code:-

A8.2. Business telephone
number/s:- _____

A8.3. Business fax number/s:- _____

A8.4. Business e-mail address/es:- _____

A9. Date on which the company's financial year will end:- _____

B: Shareholders and percentage sizes of holdings or voting rights (Note 2)

B1. *Individual shareholders:-*

Name:- (1)_____

Identity Card number /
Passport Number :- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:- _____

Name:- (2)_____

Identity Card number /
Passport Number :- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:-

B2. *Body* *corporate*
shareholders:-

Name:-

(1)_____

Registration number:-

Address of registered office
including Post Code:-

Proportion and form of
voting rights/share capital
held:-

Name:-

(2)_____

Registration number:-

Address of registered office
including Post Code:-

Proportion and form of
voting rights/share capital
held:-

C: Directors, Management and Officers (Note 3)

C1. Names of persons who are proposed to be appointed directors, controllers or senior managers of the company and their position:-

C2. Name of person who is proposed to be appointed as compliance officer of the company:-

C3. Name of person who is proposed to be appointed as money laundering reporting officer of the company (*if applicable*) :-

D: Own funds (Note 4)

D1. Amount of the value of the own funds of the company:-

D2. Origin of sources of the own funds:-

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

E1. Business of Affiliated insurance:-

- E2. Business of reinsurance *solely and exclusively*:-
- E3. Business of direct insurance *solely and exclusively* :-
- E4. Combined – Business of direct insurance and reinsurance :-
- E5. Long term business in relation to commitments where Malta is the country of the commitment:-
- E6. Long term business in relation to commitments where Malta is not the country of the commitment:-
- E7. General business in relation to risks situated in Malta
- E8. General business in relation to risks situated outside Malta

F: Classes of long term business and groups of classes of general business which the company proposes to carry on (*Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof*) (Note 6)

Long term business -

- I. Life and annuity
- II. Marriage and birth
- III. Linked long term
- IV. Permanent health

- V. Tontines
- VI. Capital redemption
- VII. Pension fund management
- VIII. Collective insurance
- IX. Social insurance

General business -

1	<input type="checkbox"/>	Accident and Health	1	2				
2	<input type="checkbox"/>	Motor	1(d)	3	7	10		
3	<input type="checkbox"/>	Marine and Transport	1(d)	4	6	7	12	
4	<input type="checkbox"/>	Aviation	1(d)	5	7	11		
5	<input type="checkbox"/>	Fire and other Damage to Property	8	9				
6	<input type="checkbox"/>	Liability	10	11	12	13		
7	<input type="checkbox"/>	Credit and Suretyship	14	15				
8	<input type="checkbox"/>	General	1	2	3	4	5	
			6	7	8	9	10	
			11	12	13	14	15	
			16	17	18			

G: Where the company proposes to carry on long term business 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:-

H4. In or/and from a country outside Malta:-

I: Principal place of business

I1. Address of principal place of business including Post Code
(if not the same as A4.):-

I2. Business telephone number/s:-

I3. Business fax number/s:- _____

I4. Business e-mail address/es:- _____

J: Manner of operation

J.1: Branch or branches (*local and foreign*)

J.1.1. Address or addresses of
branch or branches including
Post Code:- _____

J.1.2. Business telephone
number/s:- _____

J.1.3. Business fax number/s:- _____

J.1.4. Business e-mail address/es:- _____

J.2: Company Managed by Insurance Manager

J.2.1. Name of insurance
manager:- _____

J.2.2. Address or addresses of
insurance manager/s
including Post Code:- _____

J.2.3. Business telephone _____
number/s:-

J.2.4. Business fax number/s:- _____

J.2.5. Business e-mail address/es:- _____

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 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.

Name and Signature _____

Position _____

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.

*Any reference in the application form to the **Personal Questionnaire** means a reference to the Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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 limited liability company formed and registered under the Companies Act, 1995. The head office of the company shall be situated in Malta.

Where an applicant is a company 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 shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 should be provided.

Where the applicant has or will have one or more qualifying shareholders, or if the applicant 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 Passport Number is to be submitted in cases where individual shareholders do not hold an identity card.

During the application process, the Authority will consult the competent authorities of other Member States or EEA States responsible for the supervision of insurance undertakings, reinsurance undertakings, credit institutions or investment firms where the applicant will be -

- (a) a subsidiary of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (b) a subsidiary of the parent undertaking of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (c) controlled by the same person, who controls an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State.

The Authority shall, in particular, consult the other competent authorities when assessing the suitability of the shareholders and the reputation and experience of directors involved in the management of another entity of the same group as well as for the ongoing assessment of compliance with authorisation conditions.

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 Personal Questionnaire should be submitted for each director, controller, senior manager, company secretary, compliance officer and money laundering reporting officer. The latter officer is to be appointed only in the case that the applicant proposes to carry on long term business or business of affiliated insurance.

A company carrying on business of insurance and which is managed by an insurance manager may appoint an officer of the insurance manager to carry out the functions of a compliance officer and money laundering reporting officer.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Appendices I and II appended to this Rule.

4. The amount of the value of the own funds of the company shall relate to the kind of business to be carried on by the company within the meaning of Title I of the Schedule to Insurance Rule 1 of 2007.
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 company 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 \(Test-Achats\)](#)

Documentation

Please provide the following documentation:

1. Memorandum and articles of association of the company which shall have to be approved by the Authorisation Unit of the Authority before registration.

2. A statement showing the components making up the own funds of the company within the meaning of Title II of the Schedule to Insurance Rule 1 of 2007.
3. A scheme of operations relating to the proposed business to be carried on by the company prepared in accordance with this Rule.
4. Organisation set-up including number of employees and their qualifications.
5. Copies of all proposed reinsurance treaties.
6. Where the applicant proposes to carry on long term business, 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.
7. Where an applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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 company 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.
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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Paragraph 7 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance 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 of affiliated insurance.

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 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.

SECOND SCHEDULE

(Article 7 of the Rule)

INSURANCE BUSINESS ACT, 1998

(Article 11 of the Act)

Application by a company whose head office is in a country outside Malta for authorisation to carry on business of insurance

Director-General
Malta Financial Services Authority

I hereby apply for the issue of an authorisation to the company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998.

An application for authorisation fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

A: Company details

A1. Name of company:- _____

A2. Date of registration,
incorporation or constitution
under the laws of the country
where its head office is
situated (*day/month/year*):- _____

A3. Registration, incorporation
or constitution number:- _____

- A4. Address of registered office including Post Code:-

- A5. Business telephone number/s:-

- A6. Business fax number/s:-

- A7. Business e-mail address/es:-

- A8. Name of company secretary (*refer to Note 2*):-

- A9. Name of the company's auditors:-

- A9.1. Address including Post Code:-

- A9.2. Business telephone number/s:-

- A9.3. Business fax number/s:-

- A9.4. Business e-mail address/es:-

- A10. Name of the company's principal bankers:-

A10.1. Address including Post Code:- _____

A10.2. Business telephone number/s:- _____

A10.3. Business fax number/s:- _____

A10.4. Business e-mail address/es:- _____

A11. Name of the company's legal consultants:- _____

A11.1. Address including Post Code:- _____

A11.2. Business telephone number/s:- _____

A11.3. Business fax number/s:- _____

A11.4. Business e-mail address/es:- _____

A12. Date on which the company's financial year ends:- _____

B: Shareholders and percentage sizes of holdings or voting rights (Note 1)

B1. Individual shareholders:-

Name:- (1) _____

Passport number:- _____

Address including Post Code:- _____

Proportion and form of voting rights/share capital held:- _____

Name:- (2) _____

Passport number:- _____

Address including Post Code:- _____

Proportion and form of voting rights/share capital held:- _____

B2. Body corporate shareholders:-

Name:- (1) _____

Registration, incorporation or constitution number:- _____

Address of registered office including Post Code:-

Proportion and form of voting rights/share capital held:-

Name:-

(2) _____

Registration, incorporation or constitution number:-

Address of registered office including Post Code:-

Proportion and form of voting rights/share capital held:-

C: Directors and Management (Note 2)

C1. Names of persons who are directors, controllers or senior managers of the company and their position:-

D: Own funds (Note 3)

D1. Amount of the value of the own funds of the company:-

D2. Rate of conversion used:- _____

D3. Origin of sources of the own funds :- _____

E: Authorisation/permission to carry on business of insurance in the country of registration, incorporation or constitution

E1. Long term business:-

E2. General business:-

E3. Reinsurance:-

E4. Authorisation/permission number:- _____

F: Kind of business of insurance to be carried on forming the object of the application (*please tick the appropriate boxes*) (Note 4)

F1. Business of reinsurance *solely and exclusively*:-

F2. Business of direct insurance *solely and exclusively* :-

F3. Combined – Business of direct insurance and reinsurance :-

F4. Long term business in relation to commitments where Malta is the country of the commitment:-

- F5. Long term business in relation to commitments where Malta is not the country of the commitment:-
- F6. General business in relation to risks situated in Malta
- F7. General business in relation to risks situated outside Malta

G: Classes of long term business and groups of classes of general business which the company proposes to carry on (Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof) (Note 5)

Long term business -

- I. Life and annuity
- II. Marriage and birth
- III. Linked long term
- IV. Permanent health
- V. Tontines
- VI. Capital redemption
- VII. Pension fund management
- VIII. Collective insurance
- IX. Social insurance

General business -

- 1 Accident and Health

1	2
---	---
- 2 Motor

1(d)	3	7	10
------	---	---	----

3	<input type="checkbox"/>	Marine and Transport	1(d)	4	6	7	12
4	<input type="checkbox"/>	Aviation	1(d)	5	7	11	
5	<input type="checkbox"/>	Fire and other Damage to Property	8	9			
6	<input type="checkbox"/>	Liability	10	11	12	13	
7	<input type="checkbox"/>	Credit and Suretyship	14	15			
8	<input type="checkbox"/>	General	1	2	3	4	5
			6	7	8	9	10
			11	12	13	14	15
			16	17	18		

H: Where the company proposes to carry on long term business provide the name and other particulars of the appointed actuary

H1. Name of appointed actuary:- _____

H1.1. Address including Post Code:-

H1.2. Business telephone number/s:- _____

H1.3. Business fax number/s:- _____

H1.4. Business e-mail address/es:- _____

I: Where business of insurance is to be carried on (please tick the appropriate box)

I1. In Malta:-

I2. From Malta:-

I3. In and from Malta:-

J: Manner of operating in or from Malta (please tick the appropriate box) (Note 6)

J1. Branch:-

J2. Insurance Agent:-

J3. Both a branch and Insurance Agent:-

K: Where applicant proposes to operate through a branch, manner of management (please tick the appropriate box) (Note 7)

K1. Individual exercising managerial functions:-

K2. Insurance manager:-

L: The Malta Branch where applicable (Note 8)

L1. Date of registration of applicant as an oversea company under the Companies Act, 1995 (day/month/year):- _____

L2. Registration number:- _____

L3. Address of registered office including Post Code:-

L4. Name of person who is proposed to be appointed as compliance officer:-

L5. Name of person who is proposed to be appointed as money laundering reporting officer (*if applicable*):-

L6. Business telephone number/s:-

L7. Business fax number/s:-

L8. Business e-mail address/es:-

L9. Name of the company's principal bankers:-

L9.1. Address including Post Code:-

L9.2. Business telephone number/s:-

L9.3. Business fax number/s:-

L9.4. Business e-mail address/es:- _____

L10. Principal place of business

L10.1. Address of principal place of business in Malta including Post Code (*if not the same as A4.*):- _____

L10.2. Business telephone number/s:- _____

L10.3. Business fax number/s:- _____

L10.4. Business e-mail address/es:- _____

L11. Other place/s of business (Note 9)

L11.1. Address or addresses of other place or places of business in Malta including Post Code:- _____

L11.2. Business telephone number/s:- _____

L11.3. Business fax number/s:- _____

L11.4. Business e-mail address/es:- _____

M. General representative in Malta (*refer to Note 8.1*)

M1. (*where the representative is an individual*)

M1.1. Surname:- _____

Forename/s:- _____

Title:- _____

Name commonly known by:- _____

Any previous name/s by
which known:-

M1.2. Identity Card number:- _____

M1.3. Business Address including
Post Code:-

M1.4. Business telephone
number/s:- _____

M1.5. Business fax number/s:- _____

M1.6. Business e-mail address/es:- _____

M2. *(where the representative is not an individual)*

M2.1. Name of body corporate:- _____

M2.2. Date of registration under the Companies Act, 1995
(day/month/year):- _____

M2.3. Registration number:- _____

M2.4. Address of registered office including Post Code:-

M2.5. Address of principal place of business including Post Code
(if not the same as M2.4.): -

M2.6. Business telephone number/s:- _____

M2.7. Business fax number/s:- _____

M2.8. Business e-mail address/es:- _____

M2.9. (individual representative of the representative body corporate)

M2.9.1. Surname:- _____

Forename/s:- _____

Title:- _____

Name commonly known by:- _____

Any previous name/s by
which known :- _____

M2.9.2. Identity Card number:- _____

M2.9.3. Business Address including
Post Code:- _____

M2.9.4. Business telephone
number/s:- _____

M2.9.5. Business fax number/s:- _____

M2.9.6. Business e-mail address/es:- _____

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 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.

Name and Signature _____

Position _____

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.

*Any reference in the application form to the **Curriculum Vitae** or **Personal Questionnaire** means a reference to the Curriculum Vitae or Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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. Where qualifying shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 should be provided.

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

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

2. A Personal Questionnaire shall be submitted for each director, controller, senior manager and company secretary. However, the Authority may require a Curriculum Vitae in lieu of a Personal Questionnaire.
3. The amount of the value of the own funds of the company shall relate to the kind of business to be carried on by the company within the meaning of Title I of the Schedule to Insurance Rule 1 of 2007.
4. 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.
5. 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 company proposes to carry on.
6. The insurance agent referred to in J2. should conform with the provisions of the Insurance Intermediaries Act (Cap.487). Attach an attested copy of the respective appointment including a copy of the power of attorney conferred upon the agent by the company.
7. The individual exercising managerial functions referred to in K1. should conform with the provisions of article 11(2) of the Act. The insurance manager referred to in K2. should conform with the provisions of the Insurance Intermediaries Act (Cap.487). In each case, attach an attested copy of the respective appointment including a copy of the power of attorney conferred upon the person by the company.
8. The applicant shall provide the Authority with the list of particulars required to be provided to the Registrar of Companies under the Companies Act, 1995.
- 8.1 If the applicant proposes to operate through a branch, a Personal Questionnaire should be submitted for the general representative the compliance officer, and the money laundering reporting officer. The

latter officer is to be appointed only in the case that the applicant proposes to carry on long term business or business of affiliated insurance.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Appendices I and II appended to this Rule.

9. Any other place of business shall be managed by an individual exercising managerial functions.
10. 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 \(Test-Achats\)](#).

Documentation

Please provide the following documentation:

1. Updated Memorandum and articles of association of the company or any other instrument of registration, incorporation or constitution of the company.
2. An attested copy of the original certificate of incorporation or registration of the company.
3. A statement showing the components making up the own funds of the company within the meaning of Title II of the Schedule to Insurance Rule 1 of 2007. Where appropriate, kindly indicate the rate of conversion used.
4. A company profile outlining lines of business, subsidiaries/associates and geographical spread.
5. Organisation set-up including number of employees and their qualifications.

6. A certificate of solvency of the company issued by the home supervisory authority.
7. Audited copies of the financial statements of the company for the last two preceding financial years.
8. Copies of all proposed reinsurance treaties in respect of the Malta business.
9. A scheme of operations relating to the proposed business to be carried on by the company prepared in accordance with this Rule.
10. Where the applicant proposes to carry on long term business, 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.
11. A certificate as respects the solvency of the company computed in accordance with article 14 of the Act signed -
 - a. where the company proposes to carry on long term business, by the appointed actuary.
 - b. where the company proposes to carry on general business, by a person authorised on that behalf by the company.
12. Attach an attested copy of the appointment of the general representative made by the applicant.
13. Documentary evidence that the company maintains in Malta at all times assets of such kind and amount as may be prescribed or determined for the purposes of this application.
14. Where the applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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

company 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.
15. 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.
16. 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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Paragraph 14 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance where the insurance relates to vehicles not registered in Malta.

Paragraph 16 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance.

For more information regarding the agreements mentioned in paragraph 14 kindly contact the Director-General of the Malta Insurance Association. Tel: (356) 21232640, (356) 21240609; Fax: (356) 21248388.

During the analysis of the application, the 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.

THIRD SCHEDULE

(Article 7 of the Rule)

Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2010

Application by a Protected Cell Company for authorisation to carry on business of insurance, or to convert a non-cellular company or transform an incorporated cell company having no incorporated cells into a protected cell company

Director-General
Malta Financial Services Authority

** Please tick the appropriate box.*

I hereby apply for the issue of an authorisation to the protected cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”).*

I hereby apply for the conversion of a non-cellular company into a protected cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”). *

I hereby apply for the transformation of an incorporated cell company, having no incorporated cells, into a protected cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”). *

** Please delete as applicable.*

An application for authorisation fee / conversion fee/ transformation fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

Separate applications will be submitted for each cell.

A: Company details (Note 1)

A1. Name of protected cell company:- _____

A2. Date of registration under the Companies Act, 1995 (day/month/year):- _____

A3. Registration number:- _____

A4. Address of registered office including Post Code:-

A5. Name of company secretary (refer to Note 3):- _____

A6. Name of approved auditors:- _____

A7. Name of the company's principal bankers:- _____

A7.1. Address including Post Code:-

A7.2. Business telephone number/s:- _____

A7.3. Business fax number/s:- _____

A7.4. Business e-mail address/es:- _____

A7.5. Details of the signatories and signing details of the bank mandate :-

A8. Name of the company's legal consultants:-

A8.1. Address including Post Code:-

A8.2. Business telephone number/s:-

A8.3. Business fax number/s:-

A8.4. Business e-mail address/es:-

A9. Date on which the company's financial year will end:-

B: Shareholders and percentage sizes of holdings or voting rights (Note 2)

B1. *Individual shareholders:-*

Name:- (1)_____

Identity Card number/
Passport Number:- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:- _____

Name:- (2)_____

Identity Card number/
Passport Number:- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:- _____

B2. *Body corporate
shareholders:-*

Name:- (1)_____

Registration number:- _____

Address of registered office
including Post Code:- _____

Proportion and form of voting rights/share capital held:-

Name:-

(2) _____

Registration number:-

Address of registered office including Post Code:-

Proportion and form of voting rights/share capital held:-

C: Directors, Management and Officers (Note 3)

C1. Names of persons who are proposed to be appointed directors, controllers or senior managers of the company and their position:-

C2. Name of person who is proposed to be appointed as compliance officer of the company:-

C3. Name of person who is proposed to be appointed as money laundering reporting officer of the company,(if

applicable) :-

D: Own funds (Note 4)

D1. Amount of the value of the own funds of the cell company specifying the value of own funds of individual cells:- _____

D2. Origin of sources of the own funds:- _____

E: Kind of business of insurance to be carried on (*please tick the appropriate boxes*) (Note 5) – remember to submit separate applications for each cell.

If the cell company does not propose to issue insurance contracts from the non-cellular part of the cell company, proceed to Section K of this form.

E1. Business of Affiliated insurance:-

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

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

E4. Combined – Business of direct insurance and reinsurance :-

E5. Long term business in relation to commitments where Malta is the country of the commitment:-

E6. Long term business in relation to commitments where Malta is not the country of the commitment:-

E7. General business in relation to risks situated in Malta

E8. General business in relation to risks situated outside Malta

F: Classes of long term business and groups of classes of general business which the company proposes to carry on (*Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof*) (Note 6)

F1. Long term business -

I. Life and annuity

II. Marriage and birth

III. Linked long term

IV. Permanent health

V. Tontines

VI. Capital redemption

VII. Pension fund management

VIII. Collective insurance

IX. Social insurance

F2. General business -

1 Accident and Health

1	2
---	---

2 Motor

1(d)	3	7	10
------	---	---	----

3 Marine and Transport

1(d)	4	6	7	12
------	---	---	---	----

4	<input type="checkbox"/>	Aviation	1(d)	5	7	11	
5	<input type="checkbox"/>	Fire and other Damage to Property	8	9			
6	<input type="checkbox"/>	Liability	10	11	12	13	
7	<input type="checkbox"/>	Credit and Suretyship	14	15			
8	<input type="checkbox"/>	General	1	2	3	4	5
			6	7	8	9	10
			11	12	13	14	15
			16	17	18		

G: Where the company proposes to carry on long term business 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:-
- H4. In or/and from a country outside Malta:-

I: Principal place of business

- I1. Address of principal place of business including Post Code (if not the same as A4.):-

- I2. Business telephone number/s:- _____
- I3. Business fax number/s:- _____
- I4. Business e-mail address/es:- _____

J: Branch or branches (local and foreign)

- J1. Address or addresses of branch or branches including Post Code:-

J2. Business telephone number/s:- _____

J3. Business fax number/s:- _____

J4. Business e-mail address/es:- _____

K: General

K1. State reasons why a protected cell company is required and how the cells will be used. _____

K2. 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. _____

K3. Is the fact that there is insurance coverage by the protected cell company non-cellular section 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? _____

K4. State any connection between the protected cell company non-cellular section (including directors and _____

officers of the cell company)
and any person or
organisation remunerated
directly or indirectly (e.g.
insurance brokers, etc) by the
protected cell company non-
cellular section.

K5. Please advice whether the
non-cellular section will not
be carrying on any insurance
operations.

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 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.

Name and signature _____

Position _____

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.

*Any reference in the application form to the **Personal Questionnaire** means a reference to the Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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. (a) All particulars required by the application form are in respect of a limited liability company formed and registered under Companies Act, 1995.

The name of the company shall include the expression “Protected Cell Company” or “PCC”.

Where an applicant is a company 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.

- (b) Individual cells each need to complete and submit separate cell application forms.
2. Where qualifying shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 should be provided.

Where the applicant has or will have one or more qualifying shareholders, or if the applicant 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 Passport Number is to be submitted in cases where individual shareholders do not hold an identity card.

During the application process, the Authority will consult the competent authorities of other Member States or EEA States responsible for the supervision of insurance undertakings, credit institutions or investment firms where the applicant will be -

- (a) a subsidiary of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (b) a subsidiary of the parent undertaking of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (c) controlled by the same person, who controls an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State.

The Authority shall, in particular, consult the other competent authorities when assessing the suitability of the shareholders and the reputation and experience of directors involved in the management of another entity of the same group as well as for the ongoing assessment of compliance with authorisation conditions.

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 Personal Questionnaire should be submitted for each director, controller, senior manager, company secretary, compliance officer and money laundering reporting officer. The latter officer is to be appointed only in the case that the applicant proposes to carry on long term business or business of affiliated insurance.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Appendices I and II appended to this Rule.

4. The amount of the value of the own funds of the cell company shall relate to the kind of business to be carried on by the company within the meaning of Title I of the Schedule to Insurance Rule 1 of 2007.
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 company 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 \(Test-Achats\)](#).

Documentation

Please provide the following documentation:

1. Memorandum and articles of association of the company which shall have to be approved by the Authorisation Unit of the Authority before registration. In the case of an application by an existing company for its conversion into a cell company, the applicant shall also submit a copy of the resolution amending the company's memorandum and articles of association.

The memorandum and articles of association of a protected cell company shall state that it is a cell company.

2. A statement showing the components making up the own funds of the company within the meaning of Title II of the Schedule to Insurance Rule 1 of 2007.
3. A scheme of operations relating to the proposed business to be carried on by the company prepared in accordance with this Rule.

If the non-cellular section of the cell company does not propose to issue insurance contracts, the schemes of operations should accompany the separate cell application forms.

4. Organisation set-up including number of employees and their qualifications. If the cell company appoints an insurance manager to manage any part of its business, it is to indicate whether the insurance manager will underwrite the non-cellular section or handle the non-cellular claims.
5. Copies of all proposed reinsurance treaties.
6. Where the applicant proposes to carry on long term business, 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.
7. In the case of a conversion of an authorised company, or a transformation of an incorporated cell company having no incorporated cells, into a protected cell company, a draft letter to be sent to any person with whom it transacts business of insurance and every other person who claims an interest in a policy must be submitted to the Authority. Before the Authority authorises the conversion of an authorised company or a transformation of an incorporated cell company having no incorporated cells into a protected cell company, it requires details of any representations.

The Authority may require that a notice relating to the conversion of a cell company approved by it be published in at least two local daily newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be in Maltese in the Maltese daily newspapers and in English in the English daily. If the company carries on business from Malta or in or from a country outside Malta and the risk or commitment is a risk or commitment situated outside Malta, the Authority may require that such notice be published in two daily newspapers in the country where the risk is situated.

8. Where an applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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 company 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.
9. 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.

10. 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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Where an applicant applies for the conversion of an existing company into a cell company, the cell company shall omit paragraphs 8, 9 and 10 of this section.

Paragraph 8 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance where the insurance relates to vehicles not registered in Malta.

Paragraph 10 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance.

For more information regarding the agreements mentioned in paragraph 8, kindly contact the Director-General of the Malta Insurance Association. Tel: 21232640, 21240609; Fax: 21248388.

During the analysis of the application, the 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.

FOURTH SCHEDULE

(Article 7 of the Rule)

Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2010

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 cheque No. _____ , enclosed, 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.

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. Body corporate shareholders:-

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. Affiliated insurance:-

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

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

E4. Combined – Business of direct insurance and reinsurance :-

E5. Long term business in relation to commitments where Malta is the country of the commitment:-

E6. Long term business in relation to commitments where Malta is not the country of the commitment:-

E7. General business in relation to risks situated in Malta

E8. General business in relation to risks situated outside Malta

--

F: Classes of long term business and groups of classes of general business which the cell proposes to carry on (*Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof*)(Note 6)

Long term business -

- I. Life and annuity
- II. Marriage and birth
- III. Linked long term
- IV. Permanent health
- V. Tontines
- VI. Capital redemption
- VII. Pension fund management
- VIII. Collective insurance
- IX. Social insurance

General business -

- 1 Accident and Health

1	2
---	---
- 2 Motor

1(d)	3	7	10
------	---	---	----
- 3 Marine and Transport

1(d)	4	6	7	12
------	---	---	---	----
- 4 Aviation

1(d)	5	7	11
------	---	---	----
- 5 Fire and other
Damage to Property

8	9
---	---
- 6 Liability

10	11	12	13
----	----	----	----

7 Credit and Suretyship

14	15
----	----

8 General

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18		

G: Where the protected cell proposes to carry on long term business 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:-

H4. In or/and from a country outside Malta:-

I: Insurance Business – General

I1. On which date does the protected cell intend to commence carrying on insurance business? _____

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 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 the application.

Name and Signature of protected cell company directors

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.

*Any reference in the application form to the **Personal Questionnaire** means a reference to the Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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 shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 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 Personal Questionnaire 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 company 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 \(Test-Achats\).](#)

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 Rule.
3. Organisation set-up including number of employees and their qualifications.
4. Copies of all proposed reinsurance treaties.
5. Where the applicant proposes to carry on long term business, 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.
6. Copy (*in draft form*) of any agreement entered into with third parties.
7. Where an applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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 company 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.
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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Paragraph 7 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance 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 of affiliated insurance.

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 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.

FIFTH SCHEDULE

(Article 7 of the Rule)

Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations, 2010

Application by an Incorporated Cell Company for authorisation to carry on business of insurance or, to convert a non-cellular company or transform/divide a protected cell company, into an incorporated cell company

Director-General
Malta Financial Services Authority

**Please tick the appropriate box:*

I hereby apply for the issue of an authorisation to the incorporated cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”)*.

I hereby apply for the transformation of an non-cellular company into an incorporated cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”)*.

I hereby apply for the transformation or division of a protected cell company into an incorporated cell company whose particulars are given hereunder to carry on business of insurance under article 7 of the Insurance Business Act, 1998 (“the Act”)*.

** Delete as applicable*

An application for authorisation fee/transformation fee/ division fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

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

Separate applications will be submitted by each incorporated cell.

A: Company details (Note 1)

A1. Name of incorporated cell company:- _____

A2. Date of registration under the Companies Act, 1995 (day/month/year):- _____

A3. Registration number:- _____

A4. Address of registered office including Post Code:-

A5. Name of company secretary (refer to Note 3):- _____

A6. Name of approved auditors:- _____

A7. Name of the company's principal bankers:- _____

A7.1. Address including Post Code:-

A7.2. Business telephone number/s:- _____

A7.3. Business fax number/s:- _____

A7.4. Business e-mail address/es:- _____

A7.5. Details of the signatories and signing details of the bank mandate :-

A8. Name of the company's legal consultants:-

A8.1. Address including Post Code:-

A8.2. Business telephone number/s:- _____

A8.3. Business fax number/s:- _____

A8.4. Business e-mail address/es:- _____

A9. Date on which the company's financial year will end:-

B: Shareholders and percentage sizes of holdings or voting rights (Note 2)

B1. Individual shareholders:-

Name:- (1) _____

Identity Card number/
Passport Number:- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:- _____

Name:- (2) _____

Identity Card number/
Passport Number:- _____

Address including Post
Code:- _____

Proportion and form of
voting rights/share capital
held:- _____

**B2. Body corporate
shareholders:-**

Name:- (1) _____

Registration number:- _____

Address of registered office including Post Code:-

Proportion and form of voting rights/share capital held:-

Name:-

(2) _____

Registration number:-

Address of registered office including Post Code:-

Proportion and form of voting rights/share capital held:-

C: Directors, Management and Officers (Note 3)

C1. Names of persons who are proposed to be appointed directors, controllers or senior managers of the company and their position:-

C2. Name of person who is proposed to be appointed as compliance officer of the company:-

C3. Name of person who is proposed to be appointed as money laundering reporting officer of the company (if applicable) :-

D: Own funds (Note 4)

D1. Amount of the value of the own funds of the cell company specifying the value of own funds of individual incorporated cells:-

D2. Origin of sources of the own funds :-

E: Kind of business of insurance to be carried on (please tick the appropriate boxes) (Note 5) – remember to submit separate applications for each cell.

E1. Business of Affiliated insurance:-

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

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

E4. Combined – Business of direct insurance and reinsurance :-

E5. Long term business in relation to commitments where Malta is the country of the commitment:-

E6. Long term business in relation to commitments where Malta is not the country of the commitment:-

E7. General business in relation to risks situated in Malta

E8. General business in relation to risks situated outside Malta

F: Classes of long term business and groups of classes of general business which the company proposes to carry on (*Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof*) (Note 6)

F1. Long term business -

I. Life and annuity

II. Marriage and birth

III. Linked long term

IV. Permanent health

V. Tontines

VI. Capital redemption

VII. Pension fund management

VIII. Collective insurance

IX. Social insurance

F2. General business -

1 Accident and Health

1	2
---	---

2 Motor

1(d)	3	7	10
------	---	---	----

3	<input type="text"/>	Marine and Transport	1(d)	4	6	7	12
4	<input type="text"/>	Aviation	1(d)	5	7	11	
5	<input type="text"/>	Fire and other Damage to Property	8	9			
6	<input type="text"/>	Liability	10	11	12	13	
7	<input type="text"/>	Credit and Suretyship	14	15			
8	<input type="text"/>	General	1	2	3	4	5
			6	7	8	9	10
			11	12	13	14	15
			16	17	18		

G: Where the company proposes to carry on long term business 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:-

H4. In or/and from a country outside Malta:-

I: Principal place of business

I1. Address of principal place of business including Post Code
(if not the same as A4.):- _____

I2. Business telephone number/s:- _____

I3. Business fax number/s:- _____

I4. Business e-mail address/es:- _____

J: Branch or branches *(local and foreign)*

J1. Address or addresses of branch or branches including Post Code:- _____

J2. Business telephone number/s:-

J3. Business fax number/s:-

J4. Business e-mail address/es:-

K: General

K1. State reasons why an incorporated cell company is required and how the incorporated cells will be operated.

K2. 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.

K3. State any connection between the incorporated cell company (including directors and officers of the incorporated cell company) and any person or organisation remunerated directly or indirectly (e.g.

insurance brokers, etc) by the
incorporated cell company.

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 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.

Name and signature _____

Position _____

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.

*Any reference in the application form to the **Personal Questionnaire** means a reference to the Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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. (a) All particulars required by the application form are in respect of a limited liability company formed and registered under Companies Act, 1995.

The name of the company shall include the expression “Incorporated Cell Company” or “ICC”.

Where an applicant is a company 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.

- (b) Individual incorporated cells each need to complete and submit separate incorporated cell application forms.
2. Where qualifying shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 should be provided.

Where the applicant has or will have one or more qualifying shareholders, or if the applicant 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 Passport Number is to be submitted in cases where individual shareholders do not hold an identity card.

During the application process, the Authority will consult the competent authorities of other Member States or EEA States responsible for the supervision of insurance undertakings, credit institutions or investment firms where the applicant will be -

- (a) a subsidiary of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (b) a subsidiary of the parent undertaking of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (c) controlled by the same person, who controls an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State.

The Authority shall, in particular, consult the other competent authorities when assessing the suitability of the shareholders and the reputation and experience of directors involved in the management of another entity of the same group as well as for the ongoing assessment of compliance with authorisation conditions.

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 Personal Questionnaire should be submitted for each director, controller, senior manager, company secretary, compliance officer and money laundering reporting officer. The latter officer is to be appointed only in the case that the applicant proposes to carry on long term business or business of affiliated insurance.

The company secretary of an incorporated cell company can be either an individual or a body corporate. Where the company secretary is a body corporate, the latter shall submit a copy of its financial statements and the name of the individual who will be carrying out the company secretarial function. The individual concerned should submit a Personal Questionnaire.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Appendices I and II appended to this Rule.

4. The amount of the value of the own funds of the incorporated cell company shall relate to the kind of business to be carried on by the company within the meaning of Title I of the Schedule to Insurance Rule 1 of 2007.
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 company 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 \(Test-Achats\)](#).

Documentation

Please provide the following documentation:

1. Memorandum and articles of association of the company which shall have to be approved by the Authorisation Unit of the Authority before registration. In the case of an application by an existing company for its conversion into an incorporated cell company, the applicant shall also submit a copy of the resolution amending the company's memorandum and articles of association.

The memorandum and articles of association of an incorporated cell company shall state that it is an incorporated cell company.

2. A statement showing the components making up the own funds of the company within the meaning of Title II of the Schedule to Insurance Rule 1 of 2007.
3. A scheme of operations relating to the proposed business to be carried on by the company prepared in accordance with this Rule.
4. Organisation set-up including number of employees and their qualifications. If the incorporated cell company appoints an insurance manager to manage any part of its business, it is to indicate whether the insurance manager will underwrite the business of the incorporated cell company or handle its claims.
5. Copies of all proposed reinsurance treaties.
6. Where the applicant proposes to carry on long term business, 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.
7. In the case of a transformation of a non-cellular company or a division of a protected cell company into an incorporated cell company, a draft letter to be sent to any person with whom it transacts business of insurance (directly or on behalf of any cell) and every other person who claims an interest in a policy must be submitted to the Authority. Before the Authority authorises the transformation or division, it requires details of any representations.

The Authority may require that a notice relating to the conversion into an incorporated cell company approved by it be published in at least two local daily newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be

in Maltese in the Maltese daily newspapers and in English in the English daily. If the company intends to insure risk or to undertake any commitment situated outside Malta, the Authority may require that such notice be published in two daily newspapers in the country where the risk or commitment is situated.

8. Where an applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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 company 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.
9. 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.
 10. 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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Where an applicant applies for the conversion of an existing company into an incorporated cell company, the incorporated cell company shall omit paragraphs 8, 9 and 10 of this section.

Paragraph 8 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance where the insurance relates to vehicles not registered in Malta.

Paragraph 10 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance.

For more information regarding the agreements mentioned in paragraph 8, kindly contact the Director-General of the Malta Insurance Association. Tel: 21232640, 21240609; Fax: 21248388.

During the analysis of the application, the 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.

SIXTH SCHEDULE

(Article 7 of the Rule)

Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations, 2010

Application for authorisation of an incorporated cell to write business of insurance or for the transformation of a non-cellular company into an incorporated cell of an authorised incorporated cell company

Director-General
Malta Financial Services Authority

**Please tick the appropriate box:*

I hereby apply for the authorisation of an incorporated cell under the regulation 8 of the Regulations whose particulars are given below*.

I hereby apply for the approval of the transformation of an authorised non-cellular company into an incorporated cell whose particulars are given below*.

Delete as applicable

An application for approval fee / transformation fee in accordance with regulations governing fees prescribed for such purpose under the Act is made by cheque No. _____, enclosed, payable to the Malta Financial Services Authority.

Particulars of the incorporated cell and other matters relevant to this application are provided herein.

Separate applications are to be submitted for each cell.

A: Company Details (Note 1)

Name or proposed name of applicant:-

A1. The incorporated cell _____

A2. The incorporated cell
company _____

A3. Registration number _____

A4. Address of registered office
including Post Code:-

A5. Name of company secretary:-
(refer to Note 3) _____

A6. Name of approved auditors:- _____

A7. Name of the company's
principal bankers:- _____

A7.1. Address including Post
Code:-

A7.2. Business telephone
number/s:- _____

A7.3. Business fax number/s:- _____

A7.4. Business e-mail address/es:- _____

A7.5. Details of the signatories and

signing details of the bank
mandate :-

A8. Name of the company's legal
consultants:-

A8.1. Address including Post
Code:-

A8.2. Business telephone
number/s:-

A8.3. Business fax number/s:-

A8.4. Business e-mail address/es:-

A9. Date on which the
company's financial year
will end:-

**B: Shareholders and percentage sizes of holdings or voting rights
(Note 2)**

B1. *Individual shareholders :-*

Name:-

(1)_____

Identity Card number /
Passport Number :-

Address including Post

Code:- _____

Proportion and form of
incorporated cell share
capital held:- _____

Name:- (2) _____

Identity Card number /
Passport Number :- _____

Address including Post
Code:- _____

Proportion and form of
incorporated cell share
capital held:- _____

B2. *Body corporate*
shareholders:-

Name:- (1) _____

Registration number:- _____

Address of registered office
including Post Code:- _____

Proportion and form of
incorporated cell share
capital held:- _____

Name:- (2) _____

Registration number:- _____

Address of registered office including Post Code:- _____

Proportion and form of incorporated cell share capital held:- _____

C: Directors, Management and Officers of Incorporated Cells (Note 3)

C1. Names of persons who are proposed to be appointed directors, controllers or senior managers of the incorporated cell and their position:- _____

C2. Names of the person who is proposed to be appointed compliance officer of the incorporated cell:- _____

C3. Names of the person who is proposed to be appointed money laundering reporting officer of the incorporated cell (*if applicable*):- _____

D: Own funds (Note 4)

D1. Amount of the value of the own funds of the incorporated cell:- _____

D2. Origin of sources of funds the own funds:- _____

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

E1. Affiliated insurance:-

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

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

E4. Combined – Business of direct insurance and reinsurance :-

E5. Long term business in relation to commitments where Malta is the country of the commitment:-

E6. Long term business in relation to commitments where Malta is not the country of the commitment:-

E7. General business in relation to risks situated in Malta

E8. General business in relation to risks situated outside



F: Classes of long term business and groups of classes of general business which the incorporated cell proposes to carry on (*Insert I for business of insurance, R for business of reinsurance and C for combined business of insurance and business of reinsurance thereof*) (Note 6)

Long term business -

- I. Life and annuity
- II. Marriage and birth
- III. Linked long term
- IV. Permanent health
- V. Tontines
- VI. Capital redemption
- VII. Pension fund management
- VIII. Collective insurance
- IX. Social insurance

General business -

- | | | | |
|---|---|-------------------------------|-----------------------------|
| 1 | <input type="checkbox"/> Accident and Health | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| 2 | <input type="checkbox"/> Motor | <input type="checkbox"/> 1(d) | <input type="checkbox"/> 3 |
| 3 | <input type="checkbox"/> Marine and Transport | <input type="checkbox"/> 1(d) | <input type="checkbox"/> 4 |
| 4 | <input type="checkbox"/> Aviation | <input type="checkbox"/> 1(d) | <input type="checkbox"/> 5 |
| 5 | <input type="checkbox"/> Fire and other
Damage to Property | <input type="checkbox"/> 8 | <input type="checkbox"/> 9 |
| 6 | <input type="checkbox"/> Liability | <input type="checkbox"/> 10 | <input type="checkbox"/> 11 |

7 Credit and Suretyship

14	15
----	----

8 General

1	2	3	4	5
6	7	8	9	10
11	12	13	14	15
16	17	18		

G: Where the incorporated cell proposes to carry on long term business 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:-

H4. In or/and from a country outside Malta:-

I: Principal place of business

I1. Address of principal place of business including Post Code (if not the same as A4.):-

I2. Business telephone number/s:-

I3. Business fax number/s:-

I4. Business e-mail address/es:-

J: Insurance Business – General

J1. On which date does the incorporated cell intend to commence carrying on insurance business?

J2. 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.

J3. State any connection between the incorporated cell (including directors and officers of the incorporated cell) and any person or organisation remunerated directly or indirectly (e.g. insurance brokers, etc) by the incorporated cell.

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 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 the application.

Name and Signature of the directors of the incorporated cell:

Name: - _____ Signature:- _____

Date _____

Confirmation that the applicant is being accepted as an incorporated cell of the abovementioned Incorporated Cell Company

Name and Signature of the directors of the incorporated cell company:

Name:- _____ 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.

*Any reference in the application form to the **Personal Questionnaire** means a reference to the Personal Questionnaire as set out in the Appendix to Insurance Rule 15 of 2008.*

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 incorporated cell which is a limited liability company formed or registered under Companies Act.

The name of an incorporated cell shall include the expression “Incorporated Cell”

An incorporated cell shall have the same registered office as its incorporated cell company at all times.

Where the proposed incorporated cell is being created by an incorporated 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 shareholders are individuals, a Personal Questionnaire should be submitted by each individual.

Where qualifying shareholders are not individuals, the Questionnaire for Qualifying Shareholders other than Individuals set out in the Annex to Insurance Rule 29 of 2009 should be provided.

Where the applicant incorporated cell has or will have one or more qualifying shareholders, or if the applicant incorporated 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 incorporated cell is to submit the latest audited financial statements of the immediate parent of the proposed incorporated cell, 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.

During the application process, the Authority will consult the competent authorities of other Member States or EEA States responsible for the supervision of insurance undertakings, credit institutions or investment firms where the applicant will be -

- (a) a subsidiary of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (b) a subsidiary of the parent undertaking of an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State; or
- (c) controlled by the same person, who controls an insurance undertaking, reinsurance undertaking, credit institution or investment firm authorised in another Member State or EEA State.

The Authority shall, in particular, consult the other competent authorities when assessing the suitability of the shareholders and the reputation and experience of directors involved in the management of another entity of the same group as well as for the ongoing assessment of compliance with authorisation conditions.

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 Personal Questionnaire should be submitted for each director, controller, senior manager, company secretary, compliance officer and money laundering reporting officer. The latter officer is to be appointed only in the case that the applicant proposes to carry on long term business or business of affiliated insurance.

At least one of the directors of the incorporated cell company should also be a director of the incorporated cell.

The company secretary of an incorporated cell can be either an individual or a body corporate. Where the company secretary is a body corporate, the latter shall submit a copy of its financial statements and the name of the individual who will be carrying out the company secretarial function. The individual concerned should submit a Personal Questionnaire.

The directors of an incorporated cell company and the directors of each incorporated cell, as applicable shall:

- (a) keep the assets and liabilities of the incorporated cell company separate and separately identifiable from the assets and liabilities of the incorporated cells; and
- (b) keep the assets and liabilities of each incorporated cell separate and separately identifiable from the assets and liabilities of the other incorporated cells of the incorporated cell company.

The compliance officer and money laundering reporting officer are to ensure that they are clear about the extent of their responsibilities. In this respect reference is to be made to Appendices I and II appended to this Rule.

4. The amount of the value of the own funds of the incorporated cell shall relate to the kind of business to be carried on by the incorporated cell within the meaning of Title I of the Schedule to Insurance Rule 1 of 2007.
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 incorporated 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 \(Test-Achats\)](#).

Documentation

Please provide the following documentation:

1. Memorandum and articles of association of the incorporated cell which shall have to be approved by the Authorisation Unit of the Authority before registration.
2. A statement showing the components making up the own funds of the company within the meaning of Title II of the Schedule to Insurance Rule 1 of 2007.
3. A scheme of operations relating to the proposed business to be carried on by the incorporated cell prepared in accordance with this Rule.
4. Organisation set-up including number of employees and their qualifications. If the incorporated cell appoints an insurance manager to manage any part of its business, it should indicate whether the insurance manager will underwrite the business of the incorporated cell or handle its claims.
5. Copies of all proposed reinsurance treaties.
6. Where the applicant proposes to carry on long term business, 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.

7. In the case of an transformation of a non-cellular company into an incorporated cell, the applicant shall also submit the incorporation agreement entered into with the incorporated cell company.
8. In the case of an incorporated cell relocating from one incorporated cell company to another, the applicant shall also submit the relocation agreement entered into with the incorporated cell company.
9. In the case of a transformation of a non-cellular company into an incorporated cell, or a relocation of an incorporated cell from one incorporated cell company to another, a draft letter to be sent to any person with whom it transacts business of insurance and every other person who claims an interest in a policy must be submitted to the Authority. Before the Authority authorises the transformation, it requires details of any representations.

The Authority may require that a notice relating to the transformation into an incorporated cell approved by it be published in at least two local daily newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be in Maltese in the Maltese daily newspapers and in English in the English daily. If the incorporated cell intends to insure risk or to undertake any commitment situated outside Malta, the Authority may require that such notice be published in two daily newspapers in the country where the risk or commitment is situated.

10. Copy (*in draft form*) of any agreement entered into with third parties.
11. Where an applicant proposes to carry on business of insurance of group 2 specified in Part II of the Third Schedule to the Act, it is to provide a copy of the motor policy of insurance to be issued by the company.

Moreover, where the insurance relates 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 company 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.
12. 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.
 13. 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 company relating to protected risks situated in Malta or protected commitments where Malta is the country of the commitment.

Paragraph 11 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance where the insurance relates to vehicles not registered in Malta.

Paragraph 13 shall not apply where an applicant proposes to carry on solely and exclusively business of reinsurance or business of affiliated insurance.

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 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.

Appendix 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 company desirous of applying for authorisation to carry on and, on continuing basis, a company authorised to carry on business of insurance; or

(b) every branch of a company whose head office is in a country outside Malta carrying on business of insurance in Malta; or

(d) every company formed or constituted as a protected cell company;

(e) 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 Authority of the proposed appointment, after having conducted its own due diligence checks.

2.2 The 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, and take the steps to ensure that the company's staff are familiar with those conditions, that are relevant to their role within the Company, in particular the Insurance Business (Criteria of Sound and Prudent Management) Regulations, 1999. These Regulations require the Company to have adequate operational, administrative and financial procedures and controls to ensure compliance with the regulatory requirements. In terms of these Regulations, in so far as these apply, the Company is also required to supervise the activities of its tied insurance intermediaries.
- 3.4.** The 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 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 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 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.

Appendix II

Guidelines for Money Laundering Reporting Officers

1.0 Preliminary

1.2 As the regulator of business of insurance, the Authority is responsible for ensuring that:

(a) every company desirous of applying for authorisation to carry on and, on continuing basis, a company authorised to carry on long term business of insurance; or

(b) every branch of a company whose head office is in a country outside Malta carrying on long term business of insurance; or

(c) every company desirous of applying for authorisation to carry on business on affiliated insurance and, on continuing basis, a company 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;

(e) every company formed or constituted as an incorporated cell company authorised to carry on long term business of insurance or 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, 1994, 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, 2008 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 Authority of the proposed appointment after having conducted its own due diligence checks.
- 2.2 The 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, 1994 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

- 4.1.1 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.
- 4.1.2 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.
- 4.1.3 Care should be taken when new staff are recruited to ensure that they receive the necessary training.
- 4.2 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.
- 4.3 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.

- 4.4** 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.
- 4.5** The money laundering reporting officer must be aware that the 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 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.

Appendix III

(Article 5 of the Rule)

SYSTEMS AND CONTROLS GUIDELINES ON THE USE OF INVESTMENTS BY AUTHORISED COMPANIES CARRYING ON GENERAL BUSINESS OR LONG TERM BUSINESS

Introduction

1. In accordance with the Insurance Business (Criteria of Sound and Prudent Management) Regulations, 1999, the Authority shall not permit a company to hold an authorisation issued under the Insurance Business Act, 1998 if it appears to it that the criteria of sound and prudent management will not be satisfied. In accordance with the said Regulations, an authorised company is required to organise its affairs effectively. This will, among other things, include the appointment of an investment committee responsible for the formulation of the company's investment policy and the issuing of guidelines to management. This guidance is designed to assist the authorised company in complying with this requirement with regards to investment strategy.

Investment Strategy

2. Suitable controls and management information systems should be in place to enable the authorised company to implement an appropriate investment strategy. Such a strategy should have due regard to the following:
 - a. an authorised company must not carry on any commercial business other than business of insurance for which it is authorised and activities directly arising from that business. (For example, trading in financial instruments for speculative purposes would not normally be considered to be investment activity directly arising from the business of insurance).
 - (b) (i) subject to (ii) and (iv) below, assets relating to business of insurance must –
 - (aa) be applied only for the purposes of business of insurance;
and
 - (bb) not be transferred so as to be available for other purposes of the authorised company except where the transfer constitutes reimbursement of expenditure borne by other assets (in the same

or preceding financial year) in discharging liabilities wholly or partly attributable to business of insurance.

First exception: the use of excess assets

(ii) where it results (following an actuarial investigation in the case of long term business) that the value of the assets mentioned in indent (i) above exceeds the amount of the liabilities attributable to business of insurance, the restriction imposed by that rule does not apply to so much of those assets as represents the excess.

Qualification

(iii) indent (ii) above does not authorise a transfer or other application of assets by virtue of an actuarial investigation at any time after the date when the abstract of the actuary's report of the investigation has been deposited with the Authority in accordance with Insurance Rule 12 of 2007.

Second exception: exchanges at fair market value

(iv) nothing in indent (i) above precludes an authorised company from exchanging, at fair market value, business of insurance assets for other assets of the authorised company.

Further limitation on use of assets

(v) assets, from an authorised company's long-term insurance fund or covering an authorised company's general business insurance liabilities, as the case may be, must not be used for the purposes of any other business of the authorised company notwithstanding any arrangement for its subsequent repayment out of the receipts of that other business.

Restriction in relation to dividends

(vi) an authorised company must not declare a dividend at any time when the value of the assets relating to business of insurance, as determined in accordance with the Valuation of Assets Rules included in the Insurance Business (Assets and Liabilities) Regulations, 2007 ("the Regulations"), is less than the amount of the insurance business liabilities determined in accordance with the Determination of Liabilities Rules also included in Part X of the said Regulations.

- (c) (i) an authorised company must secure:
- (aa) that its liabilities under contracts of insurance or reinsurance entered into by it, other than liabilities in respect of ‘linked benefits’, are covered by assets of appropriate safety, yield and marketability having regard to the classes of business carried on; and
- (bb) without prejudice to the generality of sub-paragraph (aa) above, that its investments are appropriately diversified and adequately spread and that excessive reliance is not placed on investments of any particular category or description.
- (ii) an insurer which has entered into a ‘linked long-term contract’ must secure that, as far as practicable, its liabilities under the contract in respect of ‘linked benefits’ are covered as follows:
- (aa) if those benefits are linked to the value of units in an undertaking for collective investments in transferable securities or to the value of assets contained in an internal fund, by those units or assets; and
- (bb) if those benefits are linked to a share index or other reference value not mentioned in sub-paragraph (aa) above, by units which represent that reference value, or by assets of appropriate safety and marketability which correspond, as nearly as may be, to the assets on which that reference value is based.
- (iii) an insurer which has entered into a ‘linked long term contract’ must also secure that those of its liabilities under the contract in respect of ‘linked benefits’ which are not covered by contracts of reinsurance are covered by assets of a description contained in the Insurance Business (Linked Long Term Contracts) Regulations, 2000.
- (d) in the case of an insurer, the requirements of the Currency Matching and Localisation Rules included in Part V of the Regulations.
- (e) any guidance on any of the above topics issued by the Authority.

3. Overall responsibility for the determination, implementation and monitoring of such a strategy rests with the board of directors.
4. In the case of an authorised company carrying on long-term insurance business, the board should be aware of the responsibilities of the appointed actuary, in particular the duty to advise about an appropriate investment policy for the long term insurance fund of an authorised company, and should ensure that the actuary is in a position to discharge those responsibilities.

Controls over exposure

- 5a. Notwithstanding the admissibility limits in the Seventh Schedule to the Regulations, appropriate procedures should be in place for assessing the credit-worthiness of counterparties to whom the insurer is significantly exposed and for setting lower internal limits (than those in the Seventh Schedule to the Regulations) where prudence dictates such a course. This applies in particular to potential exposure to reinsurers which is not covered by the Seventh Schedule to the Regulations.
- b. In the case of a pure reinsurer, appropriate procedures should be in place for assessing the credit-worthiness of counterparties to whom the company is significantly exposed and for setting internal limits where prudence dictates such a course.
- 6a. Notwithstanding the admissibility limits in the Seventh Schedule to the Regulations, appropriate procedures should be in place for setting prudent limits for the insurer's aggregate exposure to certain categories of assets. Such limits should take account of the requirements of paragraph 2(c)(i) above concerning the suitability of assets to cover insurance liabilities. They may take account of the level of the insurer's free assets bearing in mind the possibility that such assets might in future be needed to cover insurance liabilities or the required minimum margin of solvency.
- b. In the case of a pure reinsurer, appropriate procedures should be in place for setting prudent limits for the company's aggregate exposure to certain categories of assets. Such limits should take account of the requirements of paragraph 2(c)(i) above concerning the suitability of assets to cover insurance liabilities. They may take account of the level of the company's free assets bearing in mind the possibility that such assets might in future be needed to cover insurance liabilities or the required minimum margin of solvency.
7. Systems should be in place to allow the authorised company to monitor its aggregate exposure to different categories of assets (paying particular

attention to different kinds of instrument under which exposure can arise) or to particular counterparties relative to the limits set under the procedures described in paragraphs 5 and 6 above. The issue of monitoring exposure to counterparties in respect of insurers is developed in **Annex A** to this Appendix.

8. Systems should be in place to ensure that the assets of linked long-term insurance funds of the insurer comply fully with paragraphs 2(c)(ii) and (iii) above and with the Insurance Business (Linked Long Term Contracts) Regulations, 2000.

The investment managers

9. The investment strategy should be reflected in clear terms of reference from the authorised company to its investment managers who should be qualified and competent to carry out their assigned task and whose remuneration package should be consonant with that strategy. The work of the managers should be monitored sufficiently closely to ensure that the authorised company's strategy is being followed and that the systems mentioned above are effective. These points apply equally where an external manager is used for this purpose, where a separate legal entity within the insurance group is used (in either of which cases the Authority would expect there to be a formal agreement between the two parties and for a copy of such agreement to be submitted to it) or where the managers are internal. The issues are developed in **Annex B** to this Appendix.

Use of derivatives and other complex investment instruments

10. Both the authorised company and its investment managers should ensure that controls over derivatives and other complex investment instruments have been implemented and are adequate to ensure that risks are properly assessed, regularly reviewed in the light of changing market conditions and experience and consistent with the overall investment strategy. This area is developed in **Annex C** to this Appendix.

Resources allocated

11. Resources allocated to the tasks mentioned above should be appropriate, both in quantity and quality, for ensuring that the controls are effective at all times. This applies particularly in respect of the matters covered in paragraph 10 above.

Reports to the Board

12. In order to satisfy themselves that investment activity is carried out in accordance with the approved strategy and that adequate controls are in place, the board of directors should receive reports at an appropriate frequency with appropriate details as to the investment activities and controls.

Further guidance

13. The Authority considers it important that the authorised company is aware of the Authority's requirements with regard to the investment strategy of the company and is always prepared to discuss any queries in relation to the above mentioned matters.

Annex A

(Paragraph 7 of Appendix III)

Monitoring of aggregate exposures for insurers

- A1. 'Aggregate exposure' means the amount against which the asset admissibility limits are applied. The limits are expressed as percentages of the long-term or general insurance business amounts, as appropriate. These limits represent maximum amounts which can be valued for solvency purposes; it will often be prudent for insurers to set internally lower limits in order to comply with the general provisions on suitability of assets.
- A2. The asset admissibility limits include aggregate limits of exposure to certain assets, found in the Seventh Schedule to the Regulations, of the long term or general insurance business amounts with any one counterparty or connected company of that counterparty from whatever source. In other words exposure needs to be accumulated for –
- (a) all types of investment and other activities of the insurer e.g. all derivatives transactions, stock lending, bank deposits and other loans;
 - b. all operations of the insurer, i.e. including overseas branches. Exposure through subsidiary operations will also need to be accumulated within these limits where the assets of the subsidiary are valued on a look through basis. The explicit limits do not, however apply to exposures generated through a parent or fellow subsidiary of the insurer. Where the insurer has diverse investment operations, then it may be appropriate to set 'local' limits which, even if aggregated, would still fall within the permitted overall limits; and
 - c. all dealings with the counterparty concerned or any of its connected companies. Insurers will therefore need to find out if any of their counterparties have connected companies and make sure that they are kept informed of any changes to the status of existing counterparties.
- A3. When assessing the counterparty exposure, only the amounts actually owing to the insurer need to be considered. For example, derivatives transactions with brokers would be based on the market value of the contract not the nominal value (which would be a much greater amount). Exposure could be further reduced by any margin arrangement. Aggregate exposure will normally be assessed on a gross basis at the initial stage (i.e. total amounts due to the insurer from the counterparty concerned). However, the application of generally accepted accounting practice may allow this to be reduced by amounts which the insurer owes the counterparty where there is a legal right of set-off.

Credit exposure to reinsurers

A4. Although there are no quantitative limits in the rules for reinsurance recoveries, insurers should still have regard to their accumulated credit exposure to individual reinsurers. (In this context exposure normally means debts due from the reinsurer plus anticipated recoveries on outstanding claims and IBNR). The Authority may not consider an insurer to be soundly and prudently managed if it controlled its investment activities but, in the context of its total assets, had unacceptable levels of exposure to any one reinsurer. In this context, exposure would not only relate to the amounts for which credit has been taken in the insurer's accounts but would also take into account how the insurer was planning to meet its future liabilities. The assessment of what is an 'acceptable' level of exposure to a particular reinsurer may take into account the security provided by any collateral arrangements such as letters of credit and deposits-back as well as the credit worthiness of the reinsurer itself.

Insurance groups

A5. As noted above, the detailed admissibility limits generally apply at an insurer level rather than for an insurance group as a whole. For its own prudential management reasons, group management may still wish to ensure that the basic principles apply across the group. Monitoring of exposures to individual counterparties etc. will obviously be more difficult for groups but it could be possible to use the 'local limits' approach suggested for branches.

Annex B

(Paragraph 9 of Appendix III)

Controls over investment managers

- B1. Where investment management is contracted out to a third party, the directors of the authorised company must nevertheless satisfy themselves that the appropriate controls are in place and are effective. This applies not only where the entire function is contracted out but also where only a specialist element such as derivatives trading is carried out by a third party. The directors should ensure in the latter cases in particular that the effects of their own in-house activities are considered in conjunction with the contracted out activities when monitoring aggregate exposures to certain types of investment and/or counterparty. (It should be noted that the counterparty limits apply, in the case of an insurer, to the insurer's share of investments only, not to the entire portfolio of the investment manager).
- B2. In determining what are appropriate and effective controls the Authority would normally expect the authorised company, as a minimum, to focus on the following areas –
- a. There should be a clear contract which sets out the parameters in which investment managers may operate. It is unlikely that manager's 'standard' contract will be sufficient for this purpose. The Authority would expect tailoring to reflect the legislative constraints (e.g. admissibility limits in the case of an insurer, permitted links), any investment limits set by the authorised company and more generally the authorised company's specific circumstances. For example 'to invest in whatever the manager considers appropriate' is not good enough. Apart from any specific limits the parameters need to strike an appropriate balance between risk and reward, taking due account of the nature of the authorised company's insurance liabilities and (as appropriate) the interests and reasonable expectations of its policyholders.
 - b. The extent of reporting by managers should be sufficient to enable the authorised company to assess whether or not actual operations are in line with the authorised company's strategy, and in particular meets the risk/reward criteria. In the case of an insurer, reporting should also provide sufficient information for the insurer to check how close it is to relevant asset admissibility limits (or to its own limits if lower).
 - c. Additional more detailed monitoring of managers' operations may be appropriate in certain circumstances.

d. If an investment manager is to hold funds on behalf of the authorised company or to be a counterparty to certain investment transactions, then the extent of capitalization and form of regulation of the manager will need to be taken into account. These considerations will need to be regularly reassessed e.g. a manager may be suitable for placing 10m Euro of business but not for 100m Euro. Similar considerations will also apply where the authorised company alters its investment strategy and moves into newer forms of investment activity for which the existing investment manager may have little or no experience.

B3. In addition any new investment manager appointed by the authorised company must be notified to the Authority.

Annex C

(Paragraph 10 of Appendix III)

Controls over derivatives

C1. Directors of an authorised company should take all reasonable steps (taking account of the nature and scale of use of derivatives) to satisfy themselves that managers-

a. fully understand the nature of derivatives trading being undertaken by the organisation and the related risks, and where relevant, are suitably qualified and competent to transact the range and type of transactions being undertaken and understand the nature of the exposure (including both counterparty and market risk) which their use will create;

b. have documented clearly the objectives and policies for the use of derivatives contracts and monitor, (including the carrying out of compliance audits) to ensure that their use is in line with those objectives and policies. Managers should ensure policy is sufficiently clear and precise to ensure that new types of instruments are not dealt in without due prior consideration. They should also define any associated limits on exposures or volumes that are considered appropriate;

c. have given due regard, in particular, to uncovered transactions (which may be undertaken only in relation to assets which do not match technical provisions) in the context of the above controls so that in no circumstances is the required minimum margin of solvency endangered nor, in the case of insurers carrying on long term insurance business, are policyholders' reasonable expectations adversely affected. Systems are needed which are adequate to prevent exposure to unacceptable exceptional volatile risks and to monitor transactions on a frequency commensurate with volatility and risk (in general terms). The systems should trigger a strategy to hedge or close out a transaction whenever adverse movements or events threaten a significant worsening of the authorised company's solvency position;

d. have ensured that those who have responsibility for the control of investments in derivatives, are sufficiently independent of the day-to-day operators to ensure effective control;

e. are capable of analysing and monitoring the risk of all transactions undertaken by the organisation individually and in aggregate (including

interest rate risk, foreign exchange risk, fraud, error, unauthorised access to confidential information and other operational risks);

f. have ensured that the systems cope adequately with the volumes and volatility of transactions undertaken. In particular, the front office systems should not receive the most attention and funding to the detriment of the accounting systems;

g. are provided regularly with statistics and information (appropriately summarized) on the trading volumes of derivatives contracts by type of product including regular reports of all off-balance sheet transactions, contingencies and commitments;

h. are satisfied that sufficient systems and controls relevant to derivative products have been put in place, including independent checking of prices, agreement of managers' profits to accounting profit, appropriate authorization where dealing limits have been exceeded, etc.; and

i. have tested adequately and approved valuation models which are used to value open positions and derivative contracts and that amendments to their programmes are controlled. Such models should include an appropriate test of the robustness of the portfolio to stress in changing investment conditions.

C2. In satisfying themselves on the above points, the directors collectively should have sufficient expertise to understand the important issues.