

ANNEX III

TEMPLATE FOR THE DISCLOSURE OF INFORMATION REGARDING THE EXERCISE OF OPTIONS

The disclosure of information referred to in Article 4 shall be performed by completing the following template. All references are to Directive 2009/138/EC unless otherwise stated.

TEMPLATE FOR THE DISCLOSURE OF INFORMATION REGARDING THE EXERCISE OF OPTIONS UNDER POINT (D) OF ARTICLE 31(2) OF DIRECTIVE 2009/138/EC

Article of Directive 2009/138/EC	Title of Article	Description of the option	Use of option YES / NO	National legal instrument used L /R / A ¹	Reference to Article in national law	Text or link to text of national law	Text or link to text of national law where available in another language
Article 13(27)	Definitions	Regarding the definition of large risks option to add to the category of risks classified under classes of non-life insurance 3, 8, 9, 10, 13 and 16 in Part A of Annex I, the risks insured by professional associations, joint ventures or temporary groupings	NO				

¹ Text of law (L), regulation (R), administrative rule (A).

Article 15(2), sub-paragraph 3	Scope of authorisation	Option to grant authorisation for two or more classes of direct insurance	YES	L	Article 7(1) of the Insurance Business Act (Cap. 403).	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerç ta' l-Assigurazzjoni (Kap. 403)
Article 15(3), sub-paragraph 1	Scope of authorisation	Option to grant authorisation for non-life insurance for groups of classes listed in Part B of Annex I	YES	L	Article 7(7) of the Insurance Business Act.	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerç ta' l-Assigurazzjoni (Kap. 403)
Article 17(2)	Legal form of insurance or reinsurance undertaking	Option to set up undertakings of a form governed by public law provided that such bodies have insurance or reinsurance operations as their object, under conditions equivalent to those under which undertakings governed by private law operate	NO				
Article 21(1), sub-paragraph 2	Policy conditions and scales of premiums	Option to require in life insurance systematic notification of the technical bases used for calculating scales of premiums and technical provisions for the purpose of verifying compliance with actuarial principles	YES	L	Article 48C(2)(b) of the Insurance Business Act.	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerç ta' l-Assigurazzjoni (Kap. 403)

Article 21(3)	Policy conditions and scales of premiums	Option to subject undertakings seeking or having obtained authorisation for assistance activity to checks on their resources in staff and equipment	NO				
Article 21(4)	Policy conditions and scales of premiums	Option to require approval of the memorandum and articles of association or any other documents necessary for normal supervision	YES	L & R	Article 43(2)(a) of the Insurance Business Act. Paragraph 1 under the heading Documentation of the First Schedule to Chapter 1 on the Application Process.	The Insurance Business Act (Cap. 403). First Schedule to Chapter 1 of the Insurance Rules.	Att dwar il-Kummerċ ta' l-Assigurazzjoni (Kap. 403)
Article 51(2), subparagraph 3	Report on solvency and financial condition: contents	Option allowing to exempt during a transitional period, (re) insurance undertakings from the requirement concerning the separate disclosure of the capital add-on or the impact of the use of undertaking-specific parameters where their use is required by the supervisory authority.	YES	R	Regulation 3(1) of Insurance Business (Solvency II Transitional Provisions) Regulations (S.L. 403.23).	The Insurance Business (Solvency II Transitional Provisions) Regulations.	

Article 57(1)	Acquisitions	Where Member States apply a threshold of one third for the notification to supervisory authorities of acquisitions in accordance with Directive 2004/109/EC, option to continue to apply that threshold, instead of a threshold of 30%.	NO				
Article 57(2)	Acquisitions	Where Member States apply a threshold of one third for the notification to supervisory authorities of disposals in accordance with Directive 2004/109/EC, option to continue to apply that threshold, instead of a threshold of 30%.	NO				
Article 73(2)	Pursuit of life and non-life insurance activity	Option to allow the following: (i) life insurance undertakings to obtain authorisation for non-life insurance activity for accident and sickness risks; (ii) non-life undertakings authorised solely for writing accident and sickness risks to obtain authorisation to pursue life insurance activity.	YES	L	Article 9(2) of the Insurance Business Act (Cap. 403).	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerè ta' l-Assigurazzjoni (Kap. 403)

First sentence of paragraph 3 of Article 73	Pursuit of life and non-life insurance activity	Option allowing to provide for compliance of the undertakings referred to in Article 73(2) with accounting rules governing life insurance undertakings for all of their activities	NO				
Second sentence of paragraph 3 of Article 73	Pursuit of life and non-life insurance activity	Option allowing within a winding-up procedure to apply the rules for life insurance activities to accident and sickness activities pursued by the undertakings under Article 73(2)	NO				
Article 73(5), subparagraph 2	Pursuit of life and non-life insurance activity	Option allowing to require putting an end to the simultaneous pursuit of life and non-life activities within a certain period	NO				
Article 77d(1)	Volatility adjustment to the relevant risk-free interest rate term structure	Option allowing to require prior approval by the supervisory authority to apply the volatility adjustment to the risk-free interest rate term structure to calculate the best estimate referred to in Article 77(2)	NO				

Article 148(2)	Notification by the home Member State	Option to require non-life insurance undertakings covering motor vehicle liability risks under the freedom to provide services to submit certain information	YES	R	Paragraph 9.14.1 of Chapter 9 on Freedom of Establishment and Freedom to provide Services by a European Insurance Undertaking and a European Reinsurance Undertaking.	Chapter 9 of the Insurance Rules.	
Article 150(3)	Compulsory insurance on third party motor vehicle liability	Option for the host Member State to require insurance undertakings providing services to comply with rules concerning covering aggravated risks provided that they apply to non-life insurance undertakings	NO				
Article 152(4)	Representative	Option allowing to approve a claims representative appointed according to Article 4 of Directive 2000/26/EC as a representative under Article 152(1)	YES	R	Paragraph 9.14.4 of Chapter 9 on Freedom of Establishment and Freedom to provide Services by a European Insurance Undertaking and a European Reinsurance Undertaking.	Chapter 9 of the Insurance Rules.	

Article 163(3)	Scheme of operations of the branch	Option allowing to require from insurance undertakings to submit systematic notification of the technical basis used for calculating premiums and technical provisions in regard to life insurance	YES	R	Paragraph 1.4.3 of Chapter 1 on the Application Process.	Chapter 1 of the Insurance Rules.	
Article 169(2)	Separation of non-life and life business	Option allowing composite branches to pursue life and non-life insurance activities provided that each of the activities is separately managed	NO				
Article 169(3), sub-paragraph 2	Separation of non-life and life business	Option regarding branches which on the dates referred to in the first sub paragraph of Article 73(5) pursued solely life insurance activity within the Member State, but which head office situated outside of the community simultaneously pursues life and non-life activities and subsequently wishes to pursue non-life insurance activity in that Member State.	NO				

Article 179(4), sub-paragraph 2	Related obligations	Option allowing to require the issue of a declaration that an insurance contract complies with specific provisions relating to compulsory non-life insurance	YES (only in respect of motor vehicle third party liability insurance)		Point 6(a) under the heading “Documentation” of the First Schedule to Chapter 1 on the Application Process.	First Schedule to Chapter 1 of the Insurance Rules.	
Article 181(1), sub-paragraph 2	Non-life insurance	Option to require non-systematic notification of policy conditions and other documents to verify compliance with national provisions concerning insurance contracts	YES	L	Article 48C(2)(a) of the Insurance Business Act.	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerç ta' l-Assigurazzjoni (Kap. 403).
Article 181(2), sub-paragraph 1	Non-life insurance	Option allowing to require communication of the general and specific conditions of compulsory insurance to the supervisory authority before circulating them	NO				
Article 182, sub-paragraph 2	Life insurance	Option allowing to require systematic communication of the technical bases used for calculating scales of premiums and technical provisions to verify compliance with actuarial principles	YES	L	Article 48C(2)(b) of the Insurance Business Act.	The Insurance Business Act (Cap. 403).	Att dwar il-Kummerç ta' l-Assigurazzjoni (Kap. 403).

Article 184(2), sub-paragraph 2	Additional information in the case of non-life insurance offered under the right of establishment or the freedom to provide services	Option to require for the name and address of the representative of a non-life insurance undertaking to appear in an insurance contract or other document granting cover	YES	R	Paragraph 1.18 to 1.20 of Annex I to Chapter 9 on Freedom of Establishment and Freedom to provide Services by a European Insurance Undertaking and a European Reinsurance Undertaking.	Annex I to Chapter 9 of the Insurance Rules.	
Article 185(7)	Information for policy holders	Option allowing to require the provision of additional information to ensure that policyholders understand the essential elements of the life insurance commitment	YES	R	Paragraph 12.2.4 of Chapter 12 on Conduct of Business Rules.	Chapter 12 of the Insurance Rules.	
Article 186(2)	Cancellation period	Option allowing to not apply a cancellation period for policy holders in specific cases	YES	R	Regulation 3(7) of Insurance Business (Long Term Business Contract Statutory Notice) Regulations, (S.L. 403.10).	The Insurance Business (Long Term Business Contract Statutory Notice) Regulations.	Regolamenti dwar il-Kummerç ta' l-Assigurazzjoni (Avviż Statutorju dwar il-Kuntratt ta' Kummerç fit-Tul)

Article 189	Participation in national guarantee schemes	Option allowing to require compulsory participation of non-life insurance undertakings in host Member State guarantee schemes	NO				
Article 197, subparagraph 1	Activities similar to tourist assistance	Option allowing to provide for assistance to persons in difficulties in circumstances other than those laid down in Article 2(2)	NO				
Article 198(2)(c)	Scope of this section	Option allowing to not apply the requirements for legal expenses insurance to the activity of legal expenses insurance undertaken by an assistance insurer under specific circumstances	YES	R	Paragraphs 11.2.3(c) and 11.2.4 of Chapter 11 on Provisions applicable to specific classes of general business of Insurance.	Chapter 11 of the Insurance Rules.	
Article 199	Separate contracts	Option allowing to request an explicit specification of the amount of the premium for legal expenses within the relevant contract	YES	R	Paragraph 11.2.5 of Chapter 11 on Provisions applicable to specific classes of general business of Insurance.	Chapter 11 of the Insurance Rules.	

Article 200(1), sub-paragraph 1	Management of claims	Option allowing to choose between three methods for the management of claims	YES	R	Paragraph 11.2.6 of Chapter 11 on Provisions applicable to specific classes of general business of insurance.	Chapter 11 of the Insurance Rules.	
Article 200(3), sub-paragraph 2	Management of claims	Option allowing to extend the prohibition on simultaneous pursuit of the same or similar activity in a linked insurance undertaking to members of the administrative, management or supervisory body of the legal expenses insurance undertaking	YES	R	Proviso to Paragraph 11.2.6(b) of Chapter 11 on Provisions applicable to specific classes of general business of insurance.	Chapter 11 of the Insurance Rules.	
Article 202(1)	Exception to the free choice of lawyer	Option allowing the exemption from the free choice of lawyer rule in legal expenses insurance subject to certain conditions	YES	R	Paragraph 11.2.9 of Chapter 11 on Provisions applicable to specific classes of general business of insurance.	Chapter 11 of the Insurance Rules.	

Article 206(1)	Health insurance as an alternative to social security	Option allowing to require: (a) compliance of health insurance contracts with specific legal provisions to protect the general good in the class of sickness insurance; and (b) communication to the supervisory authorities of the general and specific conditions of sickness insurance	NO				
Article 206(2), sub-paragraph 1	Health insurance as an alternative to social security	Option allowing to require the operation of an alternative health insurance system on a technical basis similar to that of life insurance subject to specific conditions	NO				
Article 207	Compulsory insurance against accidents at work	Option allowing to require compliance of undertakings offering compulsory insurance against accidents at work with specific provisions of national law of the host Member State	NO				

Article 216(1), sub-paragraph 1	Ultimate parent undertaking at national level	Option allowing for supervisory discretion to apply group supervision to an ultimate parent undertaking at national level	YES	R	Regulations 8(1)(a) and 8(2)(a) of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations. (S.L. 403.17).	The Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations.	
Article 225, sub-paragraph 2	Related insurance and reinsurance undertakings	Option allowing to require taking into account the Solvency Capital Requirements and the eligible own funds in respect of related undertakings with a head office in another Member State, as laid down in that Member State, for the purposes of the group solvency calculation	YES	R	Regulation 17(2) of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations. (S.L. 403.17).	The Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations.	

Article 227(1), sub-paragraph 2	Related third-country insurance and reinsurance undertakings	Option allowing to require taking into account the Solvency Capital Requirements and the eligible own funds in respect of related undertakings with a head office in an equivalent solvency regime third country, as laid down in that third country	YES	R	Regulation 19(2) of the Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations. (S.L. 403.17).	The Insurance Business (Supervision of Insurance and Reinsurance Undertakings in a Group) Regulations.	
Article 275(1)	Treatment of insurance claims	Option to choose between two methods or a combination thereof to ensure that insurance claims take precedence over other claims against an insurance undertaking	YES	L & R	Article 41(3) of the Insurance Business Act. Regulation 11 of the Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations (S.L. 403.15).	The Insurance Business Act (Cap. 403). The Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations.	Att dwar il-Kummerċ ta' l-Assigurazzjoni (Kap. 403)
Article 275(2)	Treatment of insurance claims	Option to provide for the precedence of expenses arising from winding-up procedures over insurance claims wholly or in part	NO				
Article 276(2), sub-paragraph 2	Special register	Option to require a single register to be kept by insurance undertakings covering life and accident and sickness risks	NO				

Article 277	Subrogation to a guarantee scheme	Option to provide for the non-application of Article 275(1) to claims by insurance creditors where they have been subrogated to a national guarantee scheme	YES	R	Regulation 12 of the Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations (S.L. 403.15).	The Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations.	
Article 279(2), sub-paragraph 2	Withdrawal of the authorisation	Option to provide that the pursuit of some activities during winding-up proceedings are subject to the consent and the supervision of the supervisory authority of the home Member State	YES	R	Regulation 13 of the Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations	The Insurance Business (Reorganisation and Winding Up of Insurance Undertakings) Regulations.	
Article 304(1)	Duration-based equity risk sub-module	Option to authorise life insurance undertakings to apply a duration-based equity risk sub-module under certain conditions	YES	R	Paragraphs 5.5.42 to 5.5.45 of Chapter 5 on Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules, of the Insurance Rules	Chapter 5 of the Insurance Rules.	

Article 305(1)	Derogations and abolition of restrictive measures	Option allowing for the granting of exemptions of non-life undertakings with certain maximum premium income which did not meet solvency requirements on 31 January 1975 from the requirement to establish a minimum guarantee fund	NO				
Article 308b(15)	Transitional measures	Option allowing to continue to apply the laws, regulations and administrative provisions that have been adopted with a view to complying with Articles 1 to 19, 27 to 30, 32 to 35 and 37 to 67 of Directive 2002/83/EC until 31 December 2019	NO				
Article 308b(16)	Transitional measures	Option allowing the ultimate parent insurance or reinsurance undertaking, during a period until 31 March 2022, to apply for the approval of an internal group model applicable to a part of a group	YES	R	Regulation 14 of the Insurance Business (Solvency II Transitional Provisions) Regulations (S.L. 403.23).	The Insurance Business (Solvency II Transitional Provisions) Regulations.	