

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Consultation Document

Proposals for Legal Notices / Ministerial Regulations and for new laws and amendments to existing laws

Explanatory Note

The documents circulated by the MFSA for the purpose of consultation are in draft form and consist of proposals. Accordingly these proposals are not binding and are subject to changes and revisions following representations received not only from licence-holders and other involved parties, but also following the necessary review and vetting by the Office of the Attorney General and the relevant Minister to whom the MFSA is required by law to provide advice on financial services matters. It is important that persons involved in the consultation bear these considerations in mind.

In the case of primary legislation in particular, Bills may and do undergo revisions during the Parliamentary stages.

This consultation is also being exercised at the request and on behalf of the Ministry of Finance, the Economy and Investment.

Note for Consultation

(Insurance Intermediaries Rule 13 of 2007 – Monies Held in a Fiduciary Capacity)

1. Purpose

Pursuant to article 20 of the Insurance Intermediaries Act (Cap.487) (“the Act”), every person enrolled under article 13 shall keep monies held by him in a fiduciary capacity separate from his or its own monies and shall, in respect of those monies maintain separate accounts in accordance with an insurance intermediaries rule made for the purposes of this article. For the purposes of this article the MFSA had issued Insurance Intermediaries Rule 13 of 2007.

A common difficulty that is being faced by a number of enrolled persons is that in the case of motor insurance business transacted by the enrolled person, clients effect an aggregate payment including premium and road license fee. Whereas, pursuant to the said Rule premium is to be deposited into a Business of Insurance Intermediaries Account, the road license fee does not fall under the definition of an insurance transaction and hence cannot be deposited into the said account. In this regard, the MFSA is proposing to amend Insurance Intermediaries Rule 13 of 2007 to the effect that road license fees can be deposited into the Company’s Business of Insurance Intermediaries Account.

2. Insurance Intermediaries Rule 13 of 2007

Paragraph (a) of article 6 to be amended as follows:

6. Every enrolled person shall without delay and, in any event not later than the next two business days after the day the money is paid to or received by the enrolled person, pay or cause to be paid into a Business of Insurance Intermediaries account and into no other account –

- a) all monies which are paid to or received by the enrolled person from any source and which relate to insurance intermediaries transactions of any kind connected with the person’s insurance intermediaries activities including commission, brokerage, document duty payable on policies and endorsements thereon, as the case may be, and road license fees received by the enrolled person in relation to motor insurance business transacted by the enrolled person.

In article 8(1) a new paragraph (h) is to be added:

8. Every enrolled person shall not use a business of insurance intermediaries account for any purpose other than -

h) the payment of road license fees, payable under the appropriate law in an amount not to exceed the amount of road license fees paid or caused to be paid into a Business of Insurance Intermediaries Account.

In article 10(2) the definition of insurance transactions liabilities is to be amended to read:

“Insurance transactions liabilities” means the aggregate of creditors in respect of insurance transactions, including road license fees payable to Transport Malta in the case of motor insurance business.

Licence-holders are kindly asked to submit any comments in writing to the **Director – Insurance and Pensions Supervision Unit**, by e-mail on ipsu@mfsa.com.mt , by not later than **Friday 29th October 2010**.

Communications Unit

Malta Financial Services Authority

24th September 2010.