

Insurance Rule 28 of 2008

Feedback Statement

January 2008

Section A - Background

A1. On the 6th July 2007, a note for consultation was circulated to the Financial Services Consultation Council (“FSCC”), the Malta Insurance Association, the Association of Insurance Agents, the Association of Insurance Brokers, and all compliance officers of insurance licence holders in respect of various Insurance Intermediaries Rules and Insurance Rules issued in terms of the Insurance Intermediaries Act (Cap. 487) or the Insurance Business Act (Cap.403), as the case may be.

A2. In this Note, reference was made to a new Insurance Rule applicable to insurance companies carrying business of insurance through the internet. This rule delineates the information which is to be included on an internet site operated by an authorised company and the conditions which the company is required to comply with when operating such site.

A3. Further to the note for consultation issued on the 6th July 2007, the Authority is issuing a feedback statement on the comments received in relation to Insurance Rule 28 of 2008 – Insurance Companies carrying on Business of Insurance through the Internet. An outline of the main comments received on Insurance Rule 28 of 2008 and the MFSA’s position in relation thereto is provided in Section B.

Section B –Main Comments Received and MFSA’s position

Insurance Rule 28 of 2008

B.1. Comments received - It was stated that article 3 of Insurance Rule 28 should make it clearer that the said insurance rule applies exclusively to authorised companies carrying on business of insurance through the Internet and not to authorised companies in general.

MFSA’s remarks –The title of the Rule is an indicator that for this Rule to apply, the authorised company must be carrying on business of insurance through the internet. Article 3 of the Rule states that compliance with this Rule is required when the insurance company is actually operating an internet site. Article 4 provides that where a company is carrying on business through the internet, it is required to satisfy a number of conditions set out in the said article.

B.2. Comments received - It was pointed out that article 4(1) of the Rule should be redrafted as follows: “Where in the course of carrying on business of insurance, a company concerned carries on such business through the internet, the internet site should, as a minimum, *include the information indicated under paragraph 3 and satisfy the conditions indicated under paragraph 2* which the company concerned is required to comply with when operating such site.”.

MFSA's remarks -The Authority has redrafted the relative provision to reflect the above mentioned suggestion with the difference that reference is first to be made to the conditions referred to in paragraph (2) of article 4 and subsequently to the information referred to in paragraph (3) of the said article.

- B.3. Comments received - Concern was raised in relation to article 4(2)(e) which stipulated that where the business of insurance is carried on through the internet, the website cannot be hyperlinked to other sites. It was argued that an insurance provider forming part of an insurance/financial group, should be entitled to set hyperlinks in their respective websites and that links to external websites offer ancillary services which could be useful to the browser.

MFSA's remarks – The MFSA has amended this paragraph to allow the internet site to be hyperlinked to other sites subject to the inclusion of appropriate statements advising the policyholder or prospective policyholder that such person is leaving the company's internet site and is accessing another site.

- B.4. Comments received – In relation to article 4(3) of the Rule, it was suggested that the word “*subsequently*” in the text “*information that complaints may subsequently be referred to the Consumer Complaints Manager*” is ambiguously used because it implies that, after referring a complaint to the company concerned, the complainant may, thereafter, refer the complaint to the Consumer Complaints Manager. It was argued that referral to the Consumer Complaints Manager is made only if a complainant is not satisfied with the result of his/her complaint as investigated by the company concerned. Therefore, it was proposed that, in article 4(3)(e) thereof, for the words “*may subsequently be referred to*” there shall be substituted the words “*may, if not resolved to the satisfaction of the complainant, be referred to*”.

MFSA's remarks – The Authority agreed with the proposed suggestion and amended article 4(3)(e) accordingly.

- B.5 The MFSA has added a savings provision (*article 6 refers*) to make it clear that the requirements of this Rule are without prejudice to the requirements of Insurance Rule 3 of 2007 – Information for Policyholders, and the Distance Selling (Retail Financial Services) Regulations, 2005 (L.N.36 of 2005).

28th January, 2008