

Note for Consultation

1. Purpose

- 1.1 The Malta Financial Services Authority is currently carrying out a review process of the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2004. The purpose of the proposed amendments is twofold –
- (i) In view that from 1 October 2006 insurance brokers and insurance managers are regulated under the Insurance Intermediaries Act (Cap. 487) (“the Intermediaries Act”) reference to the Insurance Brokers and Other Intermediaries Act (Cap. 404) and Insurance Business Act (Cap. 403), in so far as insurance managers are concerned, is being replaced by the Insurance Intermediaries Act.
 - (ii) A new regulation 14A is being introduced which makes it possible in the case of a cell which **exclusively** carries on business of affiliated insurance and if specifically permitted by the memorandum and articles of the PCC, to enter into a specific agreement with the PCC wherein it provides that only the cellular assets of that cell may be utilised to satisfy the cellular liability of such cell. However, such agreements will only be permissible where the cell carries on compulsory insurance if the cell establishes to the satisfaction of the MFSA sufficient guarantee for the protection of policyholders and other third parties. A definition of compulsory insurance is provided in the Regulation.

In this respect we are attaching the draft Companies Act (Cell Companies Carrying on Business of Insurance) (Amendment) Regulations, 2007. Comments are to be provided to the MFSA in writing by not later than Wednesday **31st October**.

2. Related Legislation

- 2.1 When reviewing the proposed amendments one may wish to make reference to the following related legislation:

- (i) Insurance Business (Companies Carrying on Business of Affiliated Insurance) (Amendment) Regulations, 2007. These amendments will come into force on the 15th October 2007. These Regulations amend the definition of “business of affiliated insurance” which now includes “business carried on by an affiliated reinsurance company”. A new definition of “affiliated reinsurance company” has been included in regulation 2 of these regulations.

- (ii) Insurance Rule 21 of 2007 – Business of Affiliated Insurance which repeals Insurance Directive 21 of 2003. This Rule comes into force on the 15th October 2007.

9 October 2007