

Consultation Procedure

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 licenceholders 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.

Note for Consultation

COMPANIES ACT (INCORPORATED CELL COMPANIES CARRYING ON BUSINESS OF INSURANCE) REGULATIONS, 2010

Legislation permitting the incorporation of cell companies carrying on business of insurance or restricted insurance intermediaries activities has been in force in Malta since 2004, with the enactment of the Companies Act (Cell Companies carrying on business of insurance) Regulations, 2004 (the “PCC Regulations”).

Taking account of international developments in the area of cell legislation, a new draft set of regulations, the Companies Act (Incorporated Cell Companies Carrying on Business of Insurance) Regulations, 2010 (“the Draft Regulations”), have been drawn up in terms of the Companies Act with the aim of setting out a framework for a new type of vehicle in Malta - Incorporated Cell Companies.

The Draft Regulations adopt a fundamentally different approach to the PCC Regulations - Incorporated Cell Companies are structured with different “patrimonies” which are all segregated through cells which are independent and separate from each other and from a “core patrimony” of the entity. They differ from Protected Cell Companies mainly because while a Protected Cell Company and its protected cells form one single legal entity, and therefore a protected cell has no separate legal identity, each incorporated cell of an incorporated cell company has a separate legal personality and is therefore treated as a separate company.

The Draft Regulations stipulate that the business to be carried out by an Incorporated Cell Company is limited to business of insurance as defined under the Insurance Business Act or affiliated insurance in terms of the Insurance Business (Companies Carrying on Business of Affiliated Insurance) Regulations, 2003. In both instances, the Incorporated Cell Company will require an authorisation in terms of the Insurance Business Act . The Draft Regulations provide that a non-cellular company (i.e. a normal company) or even a Protected Cell Company may be transformed into an incorporated cell company in accordance with the Draft Regulations.

Interested parties are kindly asked to submit any comments which they may have in relation to this draft legislation, in writing, to **the Director – Insurance and Pensions Supervision Unit**, by e-mail on ibu@mfsa.com.mt by not later than 30th April 2010.

Insurance and Pensions Supervision Unit
30th March 2010