

## **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 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.

## **Note for Consultation**

(Insurance Rules)

### **1. Purpose**

Pursuant to article 32 of the Insurance Business Act (Cap.403) (“the Act”), companies authorised to carry on business of insurance under the Act are required to submit business of insurance statements as set out in Insurance Rule 12 of 2007 (“the Rule”). The MFSA is proposing to add two new parts, Part E and Part I, in the Schedule to the Rule. Part E will contain the Certificate by Directors, the Certificate by Appointed Actuary, and the Auditors’ Report. Part I is a new part which will be dedicated to miscellaneous business statements. The MFSA is currently issuing reinsurance business statements within Part I. Part E and Part I are being issued in order to seek consultation prior to implementation. Comments are to be provided to the MFSA, in writing, by not later than **28 March 2008**.

### **2. Insurance Rule 12 of 2007 - Part E - Certificate by Directors and Actuary and Report of the Auditors**

#### **2.1 Certificate by Directors and Actuary**

There shall be annexed to the business statements referred to in the Rule –

(a) a certificate in accordance with the requirements of paragraphs 1 to 4 in Part E of the Schedule to the Rule which shall be signed by the directors of the company; and

(b) in the case of an insurer which has at any time during the reporting year in question carried on long term business, a certificate in accordance with the requirements of paragraphs 5 and 6 in Part E of the Schedule to the Rule which shall be signed by the appointed actuary.

#### **2.2 Auditors’ Report**

The documents referred to in paragraph 7 in Part E of the Schedule to the Rule shall be audited by the auditor of the insurer appointed under article 21 of the Act, who shall make and annex to the documents aforesaid a report in accordance with the requirements of paragraphs 7 and 8 in Part E of the Schedule to the Rule. As a result, it should be noted that not all forms that the company is required to submit need to be audited.

### **3. Insurance Rule 12 of 2007 - Part I - Miscellaneous**

This is a general section which will include various reporting aspects that are additional or supplementary to the information submitted in Parts A-D in the Schedule to the Rule.

The MFSA is currently proposing to add business statements relating to outwards reinsurance business. The information being requested under these business statements is part of an exercise aimed at assisting the market in preparation for the risk-based analytical assessment required to be adopted under the Solvency 2 framework in the near future.

The MFSA will also include passporting forms under Part I. These forms are already being completed by non-life insurance and life insurance companies carrying out insurance business activity by way of freedom to provide services or through branches in the EEA in accordance with the EC Council Directives 92/49/EEC and 2002/82/EEC.

### **4. Amendments to Insurance Rule 12 of 2007**

The above will entail some consequential minor amendments to Insurance Rule 12 of 2007.

### **5. Proposed timing for implementation**

The MFSA expects to bring the proposals into effect from 1 July 2008 so that the regulatory reporting proposals are intended to apply to reporting years ending on or after 30 June 2008. (In this respect, insurance companies whose reporting year coincides with the calendar year will be required to comply with the proposed Part E and Part I with effect from reporting year ending 31 December 2008 for submission to the Authority by not later than 30 June 2009.) Where the reporting year end of a company does not coincide with the calendar year end, the business statements that are required to be prepared on a reporting year basis together with their certifications and related reports are to be submitted by not later than six months from the end of the reporting year.

**February 6, 2008**