

Insurance Rule 25 of 2009

Exercise of Passport Rights by Maltese Insurance Undertakings - Services

Rule pursuant to article 4 of the Act

1. (1) This Insurance Rule on the exercise of passport rights by Maltese insurance undertakings seeking to provide services in a Member State or an EEA State (“this Rule”) is made by the Authority pursuant to, and for the purposes of, article 4 of the Act and regulation 10 of Part II of the European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2004 (“the Regulations”).

(2) This Rule shall come into force on the [] 2009.

Application

2. This Rule applies to -

(a) a Maltese insurance undertaking which is seeking to provide services in a Member State or an EEA State in exercise of a European right;

(b) a Maltese insurance undertaking which has received authorisation to carry on both long term business and general business in terms of the Act and seeks to extend its business in a Member State or an EEA State from general business to include long term business (or vice versa);

(c) a Maltese insurance undertaking which is seeking to provide services in a Member State or an EEA State in lieu of, or in addition to, establishing a branch in a Member State or an EEA State in exercise of a European right;

(d) a Maltese insurance undertaking which provides services in a Member State or EEA State in exercise of a European right, and seeks to effect changes to the details of those services,

(the “Maltese insurance undertaking”).

Scope

3. The scope of this Rule is to determine –

(a) pursuant to regulation 10(1) of the Regulations, the particulars to be included in the notice of intention to be given to the Authority by the Maltese insurance undertaking intending to provide services;

(b) pursuant to regulation 10(4) of the Regulations, the manner in which a Maltese insurance undertaking providing services is to effect changes to the details of those services.

Maltese Insurance Undertaking seeking to provide services in a Member State or an EEA State

4. A Maltese insurance undertaking which is seeking to provide services in a Member State or an EEA state in exercise of a European right must submit to the Authority a notice of intention. The particulars to be included in such notice are those specified in article 5 of this Rule.

Notice of intention

5. The notice of intention shall include:

(1) the Member State or EEA State in which it intends to operate;

(2) the nature of the commitments it proposes to cover, or the risks which it proposes to undertake in the Member State or EEA State concerned;

(3) Where the Maltese insurance undertaking proposes to carry on business of insurance in the Member State or EEA State covering risks relating to class 17 of Part I of the Third Schedule to the Act, it is to specify the arrangement chosen from those described in article 6 of Insurance Rule 19 of 2008 – Legal Expenses Insurance;

(4) Where the Maltese insurance undertaking proposes to carry on business of insurance in Malta covering risks relating to class 18 of Part I of the Third Schedule to the Act, information

relating to the resources available to the Maltese insurance undertaking to successfully carry out assistance operations.

(5) Where the Maltese insurance undertaking proposes to carry on business of insurance in the Member State or EEA State covering risks relating to class 10 of Part I of the Third Schedule to the Act, it is required to provide the Authority with:

(a) the details of the undertaking's membership or a certificate of application for membership of the national bureau and the national guarantee fund in the Member State or EEA State of the provision of services:

Provided that, where a Maltese insurance undertaking provides the Authority with a certificate of application for membership, the Authority shall obtain from the undertaking a commitment that it will not engage in business concerning this class as long as it has forwarded the final membership declaration.

(b) the name and address of the representative appointed in the Member State or EEA State of the provisions of services.

Notes on particulars

6. In the case of a Maltese insurance undertaking which is already providing services in the Member State or EEA State concerned and wishes to extend its general business to include long term business (or vice versa), the particulars required by article 5 of this Rule are only in respect of the general business or long term business for which it intends to extend its activities.

The notification procedure

7. Within one month of the date on which the Authority receives the complete notice of intention, it may give a consent notice to the foreign authority of the provision of services and inform the undertaking concerned.

Changes to details of services

8. (1) A Maltese insurance undertaking which seeks to effect any changes in the details of services shall give written notice to the Authority before implementing the change.

(2) Where on the basis of the new information forwarded by the Maltese insurance undertaking the Authority does not object to the proposed changes, it shall communicate the information to the foreign authority, as soon as possible, but in any event no later than one month after it has received the information from the Maltese insurance undertaking.

(3) The proposed change may be made as soon as the Authority has informed the Maltese insurance undertaking that the proposed change has been notified to the foreign authority pursuant paragraph (2) of this article.

Repeals and Savings

9. (1) Saving the provisions of paragraph (2) of this article, Insurance Directive 25 of 2005 – Exercise of Passport Rights by Maltese Insurance Undertakings - Services, is hereby repealed.

(2) Every action, directive, instruction, guideline or order whatsoever taken or commenced thereunder, shall continue to be valid and in force, as if such action, directive, instruction, guideline or order whatsoever were taken or commenced under this Rule.

