

23rd July 2020

Circular on the Recommendation of the European Systemic Risk Board of 27th May 2020 on restriction of distributions during the COVID-19 pandemic

1.0 Introduction

On the 8th of April 2020, the MFSa issued a Circular entitled [Circular to Insurance and Reinsurance Undertakings – EIOPA statement on dividends distribution and variable remuneration policies in the context of Covid-19](#). The purpose of that Circular was to adopt the [EIOPA statement on dividends distribution and variable remuneration policies in the context of COVID-19](#) dated the 2nd April 2020. Following EIOPA's statement, on the 17th July EIOPA has issued a report on [the Impact of ultra-low yields on the insurance sector, including first effects of the COVID-19 crisis](#). The report confirms EIOPA's position published on 2 April 2020 regarding prudence on all discretionary dividend distributions and share buy backs.

In line with the above indicated publications, the MFSa is issuing another Circular in order to adopt the [Recommendation of the European Systemic Risk Board of 27th May 2020 on restriction of distributions during the COVID -19 pandemic](#) ("the Recommendation").

The Recommendation stems from the economic crisis that developed following the coronavirus disease 2019 (COVID-19), which has a potential to evolve into a systemic financial crisis. The ultimate aim of the Recommendation is to have sufficient levels of capital and loss absorbing capacity remaining in the financial institutions to mitigate the impact of this ongoing crisis and thereby contribute to a smoother recovery for the pan-European economy as a whole.

2.0 Definitions

For the purposes of this Circular and in line with the Recommendation, a 'material risk taker' means a member of a category of staff whose professional activities have a material impact on the risk profile of the authorised insurance undertaking and an authorised reinsurance undertaking, including the Board of Directors, persons who effectively run the undertaking or have other key functions and other

categories of staff whose professional activities have a material impact on the undertaking's risk profile.

3.0 Restriction on distributions

An authorised insurance undertaking and an authorised reinsurance undertaking shall at least until January 2021 refrain from undertaking any of the following actions:

- (a) make a dividend distribution or give an irrevocable commitment to make a dividend distribution;
- (b) buy-back ordinary shares;
- (c) create an obligation to pay variable remuneration to a material risk taker,

which has the effect of reducing the quantity or quality of own funds at the EU group level (or at the individual level where the authorised insurance undertaking and the authorised reinsurance undertaking is not part of an EU group), and, where appropriate, at the sub-consolidated or individual level.

4.0 Conclusion

The full text of the Recommendation can be accessed [here](#). Any queries or requests for clarifications in respect of the above should be sent by email on ips_legal@mfsa.mt.