

12 August 2020

Circular on the amendments to Chapter 6 of the Insurance Rules

1.0 Introduction

The MFSA is introducing a new requirement in Chapter 6 of the Insurance Rules in order to align its requirements with Banking Rule B4/14 issued on the 4th June 2020 on *Outsourcing by Credit Institutions Authorised Under the Banking Act, 1994 ("Banking Rule")* and to address issues observed during on-site and off-site supervisory work.

Currently, an authorised undertaking is required to notify the competent authority in writing and in a timely manner, prior to the outsourcing of critical or important functions or activities as well as of any subsequent material developments with respect to those functions or activities, in line with the requirements of Chapter 6 of the Insurance Rules. During on-sites conducted by the MFSA, it has identified a lack of compliance with the said requirement. There have been instances where the MFSA was not informed of the outsourcing of critical important functions or activities in a timely manner. In order to address such matters, the MFSA will be introducing a new procedure by amending Section 6.8 of Chapter 6 of the Insurance Rules.

2.0 Amendments to Chapter 6 of the Insurance Rules

Pursuant to paragraph 6.8.3 of Chapter 6 of the Insurance Rules, an authorised undertaking will now be required to notify the competent authority of its intention to outsource any critical or important outsourcing functions and activities sixty (60) days prior to the outsourcing of critical or important functions. In line with the new paragraph 6.8.4 of Chapter 6 of the Insurance Rules, the MFSA will be required to review the information submitted by the authorised undertaking and within sixty (60) days. The sixty (60) days will start running from the day such authorised undertaking notifies the MFSA of its intention to outsource any critical or important functions and activities in line with paragraph 6.8.3 of Chapter 6 of the Insurance Rules.

The MFSA will be required to provide its written no objection to authorised undertaking's intention to outsource any critical or important functions or activities, upon the lapse of the sixty (60) days. It is to be noted that paragraph 6.8.4 of Chapter 6 allows the competent authority to extend this time period where it deems necessary. Where the competent authority extends such time period, it shall inform the authorised undertaking of such extension.

The new paragraph 6.8.5 states that the MFSA is required to inform the authorised undertaking of whether it approves or opposes such intended outsourcing agreement by no later than sixty (60) days, or as extended. Where the MFSA opposes the outsourcing agreement, detailed reasons must be disclosed explaining the grounds upon which the competent authority's decision has been taken.

Furthermore, in line with paragraph 6.8.6 to Chapter 6 of the Insurance Rules, where the MFSA does not inform the authorised undertaking within the stipulated time frame, whether it opposes the

intended outsourcing arrangement, such agreement is deemed as tacitly accepted. However, it is to be noted that this shall be without prejudice to the authorised undertaking's full responsibility and accountability for complying with its regulatory obligations pursuant to the Act, regulations and Insurance Rules issued thereunder. This new requirement will commence to apply as from 1st September 2020.

3.0 Contacts

Any queries or requests for clarifications in respect of the above should be sent by email on ips_legal@mfsa.mt.