

18 March 2022

Circular on the Amendments to Chapter 2 and Chapter 8 of the Insurance Rules and Chapter 7 and Chapter 8 of the Insurance Distribution Rules

1.0 Introduction

On 19 November 2021, the MFSA issued a [Consultation Document on the amendments to Chapter 2 in Part A of the Insurance Rules, Chapter 8 in Part B of the Insurance Rules, Chapter 7 and Chapter 8 in Part B of the Insurance Distribution Rules](#) (MFSA Ref: 05-2021) highlighting the proposed amendments to:

- (a) Chapter 2 of Part A of the Insurance Rules on Fit and Proper Criteria, Notification and Assessment of persons who effectively run an authorised undertaking, or persons having other key functions within the authorised undertaking;
- (b) Chapter 8 of Part B of the Insurance Rules on Financial Statements and Supervisory Reporting Requirements that an authorised undertaking shall submit and adhere to;
- (c) Chapter 7 in Part B of the Insurance Distribution Rules on Continuous Professional Development to be followed by the relevant person or the relevant employees; and,
- (d) Chapter 8 in Part B of the Insurance Distribution Rules on Monies held in a Fiduciary Capacity by the enrolled employee.

The Consultation closed on 14 December 2021 and substantial feedback was received from the market. In this respect, a [Feedback Statement](#) is being published by the MFSA highlighting the comments submitted by the insurance industry and the MFSA's replies thereto.

2.0 Amendments to Chapter 2 of Part A of the Insurance Rules

As outlined in the Consultation Document, the MFSA has introduced the definitions of “persons who effectively run the undertaking” and “key function holders” to capture a number of positions capped under the respective definitions and to streamline reference and requirements to be attained by persons occupying positions included under these respective definitions.

Furthermore, following comments received from the market, the MFSA held further discussions in relation to the time period within which authorised undertakings are required

to notify the competent authority of any changes to the identity of key function holders. In this respect the MFSA has taken note of comments raised by the industry in relation to the 90-day period and has extended the proposed notification period of 90 days to 180 days from the day following which the key function holder resigns. It is to be noted that the 180 day timeframe is subject to periodic updates from the undertaking relation to the progress made on the recruitment process and is also expected to maintain adequate records and evidence to be able to demonstrate that the undertaking is actively pursuing recruitment to find a replacement for the vacated key function position. The undertaking is also reminded that it is their responsibility to ensure that adequate contingency plans, including succession plans, are in place. The said plans should ensure that where a position becomes vacant, the respective roles and responsibilities of the said person continue to be carried out in an effective manner.

3.0 Amendments to Chapter 8 of Part B of the Insurance Rules

On 21 April 2020, a [Note for Information](#) was published informing the industry that Annex VI to Chapter 8 of the Insurance Rules had been introduced to adopt the [Recommendations on supervisory flexibility regarding the deadline of supervisory reporting and public disclosure – Coronavirus/COVID -19](#). In the Consultation Document published on 19 November 2021 it was noted that the time extensions granted for these Recommendations have expired. In view of the fact that the period stipulated by EIOPA for compliance with the reporting and public disclosure requirements has lapsed and that no feedback was received from the market, the proviso to paragraph 8.6.8 of Chapter 8 and Annex VI to Chapter 8 of the Insurance Rules has now been removed.

4.0 Amendments to Chapter 7 in Part B of the Insurance Distribution Rules

On 15 September 2021, the MFSA held a pre-consultation presentation with relevant stakeholders which provide courses, seminars and training. The position of the MFSA with respect to continuous professional development training, particularly the method of assessment, was discussed with the relevant stakeholders to gauge the service providers' feedback. Following the said meeting, the MFSA issued the [Consultation Document on the amendments to Chapter 2 in Part A of the Insurance Rules, Chapter 8 in Part B of the Insurance Rules, Chapter 7 and Chapter 8 in Part B of the Insurance Distribution Rules](#).

The MFSA would like to note that a number of undertakings are already complying with the requirement of conducting an assessment after any continuous professional training attended. In this respect, service providers are encouraged to amend the training being offered and commence including assessments to align themselves with the amendments to the provisions of Chapter 7 of the Insurance Distribution Rules.

The objective of the introduction of an assessment is to ensure that a proper understanding of the knowledge obtained during the training session would be acquired. In fact, the

method of assessment can take several forms, such as a number of multiple-choice questions which can be easily created by the undertaking itself, as long as the assessment is proportionate to the content and the duration of the training.

An assessment will be required following the completion of courses, web-based learning or in-house training in order for such training to qualify as structured continuous professional development training. On the other hand, attendance of conferences and seminars would also constitute structured continuous professional development training, where a certificate of attendance or equivalent is issued. In this respect, the MFSA would like to draw a distinction between conferences or seminars and courses. A conference or seminar is an event coordinated by an organisation where one or more subject matters indicated in Sections 6.8 to 6.10 of Chapter 6 of Part B of the Insurance Distribution Rules are discussed and debated. On the other hand, courses are equivalent to detailed and more focused training and are more akin to academic instruction, whether in-house or not. In view of this distinction, the latter necessitates that an assessment is undertaken to ensure that an understanding of the concepts discussed is obtained.

5.0 Amendments to Chapter 8 in Part B of the Insurance Distribution Rules

Following feedback received from the industry, the MFSA notes that no changes will be made to the Chapter 8 of the Insurance Distribution Rules.

6.0 Applicability

The amendments to the Insurance Rules and Insurance Distribution Rules will come into force on the date of publication of this circular. With respect to the written declarations which are required to be submitted in line with the requirements of Chapter 7 of the Insurance Distribution Rules, the amendments will be applicable for training attended in 2022. Therefore, the written declaration submitted in January 2023 in relation to the training attended in 2022 should include the new requirements.

7.0 Contacts

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