

22 December 2022

## Circular on the Proposed Changes to the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations (Subsidiary Legislation 386.10)

The Companies Act (Cell Companies carrying on business of Insurance) Regulations (“the PCC Regulations”), enable insurers to carry on the business of insurance including the business of insurance manager, the business of insurance broking under the Insurance Distribution Act, reinsurance and the business of affiliated insurance (captive insurance) through the Protected Cell Company (PCC). Regulation 15 of the PCC Regulations provides for the possibility of non-recourse, where the cell is carrying out exclusively business of affiliated insurance or business of reinsurance.

Following a detailed assessment of the model whereby a PCC makes use of the possibility of non-recourse, the MFSA intends to review the PCC Regulations and remove the provisions of Regulation 15.

The MFSA expects that as from the date of the Circular, all cell applications are to include recourse to the non-cellular assets of the PCC and are to be adequately capitalised at the level of their notional SCR, without relying on clauses such as ‘pay as paid’ or ‘cell limitation’ clauses when calculating such notional SCR.

The MFSA will be launching a consultation process in due course to effect these changes.

Any queries or requests for clarifications in respect of the above should be sent by email on [ips\\_legal@mfsa.mt](mailto:ips_legal@mfsa.mt).