

# **THE APPLICATION PROCESS OF TIED INSURANCE INTERMEDIARIES AND ANCILLARY INSURANCE INTERMEDIARIES**

## **CHAPTER 2**

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# REVISIONS LOG

VERSION	DATE ISSUED	DETAILS
1.00	12 July 2018	Issued
2.00	23 April 2020	Refer to the Note for Information dated 23 April 2020 entitled <a href="#">“Note for Information regarding Application forms in terms of the Insurance Distribution Act”</a>
3.00	07 May 2020	Refer to the Circular dated 7 May 2020 entitled <a href="#">“Circular on the Amendments on Application Forms in Terms of the Insurance Distribution Act (Cap. 487 of the Laws of Malta)”</a>
4.00	12 June 2020	Refer to the Circular dated 12 June 2020 entitled <a href="#">“Circular on the Amendments in relation to Chapter 1 and Chapter 2 of the Insurance Business Rules issued under the Insurance Business Act (Cap. 403 of the Laws of Malta)”</a>
5.00	08 August 2022	Refer to the Circular dated 08 August 2022 entitled <a href="#">“Circular on adopting the Revised Guidelines on the Legal Entity Identifier (LEI)”</a>
6.00	XXX	XXX

## 2.1 Introduction

2.1.1 This Chapter which is made pursuant to, and for the purposes of, articles 34, 36, 37, 43, 43B, 43D, 43E and 43J of the Act.

2.1.2 Part A of the Chapter determines:

- (a) the particulars of persons that are to be entered in the Tied Insurance Intermediaries Company Register of any authorised undertaking in relation to the registration of persons carrying out tied insurance intermediaries activities on behalf of such undertaking;
- (b) the manner in which:
  - (i) an undertaking authorised under the Insurance Business Act (Cap. 403) and an insurance agent enrolled under the Act, desirous of applying for enrolment in the Tied Insurance Intermediaries List of persons registered in the Tied Insurance Intermediaries Company Register of the undertaking and desirous of carrying out, for the undertaking, tied insurance intermediaries activities and, on continuing basis, an authorised undertaking having persons enrolled as aforesaid;
  - (ii) a European insurance undertaking having its head office in a Member State or EEA State other than Malta, establishing a branch or providing services in Malta in exercise of a European right, applying for enrolment in the Tied Insurance Intermediaries List of a person resident in Malta, or having its registered office or head office in Malta, to carry out, for the undertaking, tied insurance intermediaries activities,

is to submit an application to the competent authority for enrolment, in the Tied Insurance Intermediaries List, of persons desirous of carrying out tied insurance intermediaries activities on their behalf,

- (c) the particulars of persons that are to be entered in the Ancillary Insurance Intermediaries Company Register of any authorised undertaking or of an enrolled insurance broker, in relation to the registration of persons carrying out ancillary insurance intermediaries activities on behalf of such undertaking or broker;
- (d) the manner in which:
  - (i) an undertaking authorised under the Insurance Business Act (Cap. 403), an insurance agent and an insurance broker enrolled under the Act, desirous of applying for enrolment in the Ancillary Insurance Intermediaries List of persons registered in the Ancillary Insurance Intermediaries Company Register of the undertaking or broker, and desirous of carrying out, for the undertaking or broker, ancillary insurance intermediaries activities and, on continuing basis, an authorised undertaking or an enrolled insurance broker having persons enrolled as aforesaid;
  - (ii) a European insurance undertaking or an insurance intermediary registered under Article 3 of the Insurance Distribution Directive established in a

Member State or EEA State other than Malta, establishing a branch or providing services in Malta in exercise of a European right, applying for enrolment in the Ancillary Insurance Intermediaries List of a person resident in Malta, or having its registered office or head office in Malta, to carry out, for the undertaking or intermediary, ancillary insurance intermediaries activities,

is to submit an application to the competent authority for enrolment, in the Ancillary Insurance Intermediaries List, of persons desirous of carrying out ancillary insurance intermediaries activities on their behalf.

- 2.1.3 Part B of this Chapter determines the particulars to be entered in the Tied Insurance Intermediaries List and Ancillary Insurance Intermediaries List as determined by this Chapter, for the purposes of articles 36 and 43D of the Act.

## **2.2 Manner for submitting an application for registration of individuals in the Agents Register, Managers Register or Brokers Register**

- 2.2.1 Section 2.2 of the Chapter applies to:

- (a) an authorised undertaking desirous of appointing and registering a person in the Tied Insurance Intermediaries Company Register of the undertaking to carry out tied insurance intermediaries activities on behalf of the undertaking;
- (b) an authorised undertaking desirous of appointing and registering a person in the Ancillary Insurance Intermediaries Company Register of the undertaking to carry out ancillary insurance intermediaries activities on behalf of the undertaking;
- (c) an enrolled insurance broker desirous of appointing and registering a person in the Ancillary Insurance Intermediaries Company Register of the insurance broker to carry out ancillary insurance intermediaries activities on behalf of the broker;
- (d) a person desirous of applying for registration and, on continuing basis, a person registered in the Tied Insurance Intermediaries Company Register of any authorised undertaking and carrying out tied insurance intermediaries activities for such undertaking;
- (e) a person desirous of applying for registration and, on continuing basis, a person registered in the Ancillary Insurance Intermediaries Company Register of an authorised undertaking or an enrolled insurance broker and carrying out ancillary insurance intermediaries activities for such undertaking or broker.

(the “person concerned”).

- 2.2.2 The particulars to be entered into the Tied Insurance Intermediaries Company Register of an authorised undertaking, for the purposes of article 34 of the Act are those set out in the First Schedule to this Chapter.

- 2.2.3 The particulars to be entered into the Ancillary Insurance Intermediaries Company Register of an authorised undertaking for the purposes of article 43B of the Act are those set out in the Second Schedule to this Chapter.
- 2.2.4 The particulars to be entered into the Ancillary Insurance Intermediaries Company Register of an enrolled insurance broker for the purposes of article 43B of the Act are those set out in the Third Schedule to this Chapter.

### **Procedure for appointing and registering tied insurance intermediaries**

- 2.2.5 Save as otherwise provided in paragraph 2.2.2 of this Chapter, every authorised undertaking shall determine its own procedure for appointing and registering, in the Tied Insurance Intermediaries Company Register of the undertaking, a person desirous of carrying out tied insurance intermediaries activities for the undertaking.

### **Disclosure of information before registration for tied insurance intermediaries**

- 2.2.6 Before applying for and obtaining registration in the Tied Insurance Intermediaries Company Register of an authorised undertaking, a person concerned shall:
- (a) disclose to the undertaking with which the person concerned applies for registration, any other registration in any other Tied Insurance Intermediaries Company Register of any other authorised undertaking which, at the time of applying for such registration, the person concerned had already obtained;
  - (b) ensure that, at all times during the continuance of registration, any tied insurance intermediaries activities relating to any one insurance product in the case of long term business and in the case of general business, are to be carried out, or are being carried out, on behalf of one undertaking only.
- 2.2.7 Where a person concerned is enrolled in the Tied Insurance Intermediaries List, and such person:
- (a) does not disclose the information required to be disclosed under paragraph 2.2.6(a) of this Chapter; or
  - (b) fails to comply with the requirements set out under paragraph 2.2.6(b) of this Chapter,

the competent authority shall, in each case, automatically strike the name of the person off the Tied Insurance Intermediaries List.

### **Procedure for appointing and registering ancillary insurance intermediaries**

- 2.2.8 Save as otherwise provided in paragraph 2.2.3 and 2.2.4 of this Chapter, every authorised undertaking and enrolled insurance broker shall determine its own procedure for appointing and registering, in the Ancillary Insurance Intermediaries Company Register of the undertaking or of the enrolled insurance broker, a person

desirous of carrying out ancillary insurance intermediaries activities for the undertaking or enrolled insurance broker.

### **Disclosure of information before registration for ancillary insurance intermediaries**

2.2.9 Before applying for and obtaining registration in the Ancillary Insurance Intermediaries Company Register of an authorised undertaking or an enrolled insurance broker, a person concerned shall:

- (a) disclose to the undertaking or broker as applicable, with which the person concerned applies for registration, any other registration in any other Ancillary Insurance Intermediaries Company Register of any authorised undertaking or enrolled insurance broker which, at the time of applying for such registration, the person concerned had already obtained;
- (b) ensure that, at all times during the continuance of registration, any ancillary insurance intermediaries activities are carried out in accordance with paragraphs 11.4.4 to 11.4.14 of Chapter 11 in Part B of the Insurance Distribution Rules.

2.2.10 Where a person concerned is enrolled in the Ancillary Insurance Intermediaries List and such person:

- (a) does not disclose the information required to be disclosed under paragraph 2.2.9(a) of this Chapter, or
- (b) fails to comply with the requirements set out in paragraph 2.2.9(b) of this Chapter,

the competent authority shall, in each case, automatically strike the name of the person off the Ancillary Insurance Intermediaries List.

### **Pre-requisite qualifications**

2.2.11 An authorised undertaking shall not grant registration to any **person** in the Tied Insurance Intermediaries Company Register **nor shall an authorised undertaking or an enrolled broker grant registration to any person in the** Ancillary Insurance Intermediaries Company Register, unless it is satisfied that:

- (a) where the **person** is an individual, the **person**:
  - (i) is resident in Malta;
  - (ii) is aged 18 years or over;
  - (iii) has attained to the satisfaction of the undertaking or the enrolled insurance broker, as applicable, secondary school level education;
  - (iv) has a clean conduct certificate issued for such person by the Malta police and produced to the undertaking or the enrolled
  - (v) has successfully completed a course **in accordance with the Annex to this Chapter** for tied insurance intermediaries or a course for ancillary insurance

intermediaries, as applicable, in accordance with paragraph 6.4.1 of Chapter 6 in Part B of the Insurance Distribution Rules;

- (vi) possesses appropriate knowledge and ability in order to complete tasks and perform duties adequately for the purposes of articles 35(1)(b) and 43C(1)(b) of the Act as determined by Chapter 6 in Part B of the Insurance Distribution Rules;
- (vii) has met the fitness and properness criteria relevant to such kind of registration determined for such purpose by Chapter 3 in Part A of the Insurance Distribution Rules;
- (viii) has not been previously declared bankrupt, unless such person has been rehabilitated;
- (b) where the **person** is not an individual, the **person** must have an individual who satisfies the qualifications referred to in paragraph (a) above.

## **2.3. Application of persons to be entered in the Tied Insurance Intermediaries List or the Ancillary Insurance Intermediaries List**

### **2.3.1 Section 2.3 of the Chapter applies to:**

- (a) an undertaking authorised under the Insurance Business Act (Cap. 403) and an insurance agent enrolled under the Act, desirous of applying for enrolment in the Tied Insurance Intermediaries List of persons registered in the Tied Insurance Intermediaries Company Register of the undertaking and desirous of carrying out, for the undertaking, tied insurance intermediaries activities and, on continuing basis, an authorised undertaking having persons enrolled as aforesaid
- (b) a European insurance undertaking having its head office in a Member State or EEA State other than Malta, establishing a branch or providing services in Malta in exercise of a European right, applying for enrolment in the Tied Insurance Intermediaries List of a person resident in Malta or having its registered office or head office in Malta to carry out, for the undertaking, tied insurance intermediaries activities;
- (c) an undertaking authorised under the Insurance Business Act (Cap.403), an insurance agent and an insurance broker enrolled under the Act, desirous of applying for enrolment in the Ancillary Insurance Intermediaries List of persons registered in the Ancillary Insurance Intermediaries Company Register of the undertaking or broker, and desirous of carrying out, for the undertaking or broker, ancillary insurance intermediaries activities and, on continuing basis, an authorised undertaking or an enrolled insurance broker having persons enrolled as aforesaid;

- (d) a European insurance undertaking or an insurance intermediary registered under Article 3 of the Insurance Distribution Directive established in a Member State or EEA State other than Malta, establishing a branch or providing services in Malta in exercise of a European right, applying for enrolment in the Ancillary Insurance Intermediaries List of a person resident in Malta or having its registered office or head office in Malta to carry out, for the undertaking or intermediary, ancillary insurance intermediaries activities;

(the “person concerned”).

### **Pre-Enrolment Qualifications**

- 2.3.2 The person concerned shall ensure that prior to the enrolment of a tied insurance intermediary in the Tied Insurance Intermediaries List or of an ancillary insurance intermediary in the Ancillary Insurance Intermediaries List, as applicable, such intermediary:
- (a) has successfully completed a course recognised by the competent authority for tied insurance intermediaries or ancillary insurance intermediaries, as applicable, as required by paragraph 6.4.1 of Chapter 6 in Part B of the Insurance Distribution Rules;
  - (b) possesses appropriate knowledge and ability in order to complete tasks and perform duties as determined by Chapter 6 in Part B of the Insurance Distribution Rules.

### **Manner of application for enrolment in the Tied Insurance Intermediaries List**

- 2.3.3 An undertaking authorised under the Insurance Business Act (Cap. 403) and an insurance agent enrolled under the Act, is to submit an application to the competent authority for enrolment in the Tied Insurance Intermediaries List of a person desirous of carrying out tied insurance intermediaries activities under article 37 of the Act, as determined by this Chapter for the purpose of that article, in the manner set out in the Fourth Schedule to this Chapter or by accessing the [MFSA LH Portal](#)<sup>1</sup>.
- 2.3.4 Following notification of the competent authority’s decision regarding the enrolment of the Tied Insurance Intermediary in the Tied Insurance Intermediaries list, where such person is also seeking to establish a branch in another Member State or intends to provide services in another Member State (crossborder business) the said person will also be required to obtain a LEI Code in line with [the Guidelines on Legal Entity Identifier](#).
- 2.3.5 A European insurance undertaking shall submit an application to the competent authority for enrolment in the Tied Insurance Intermediaries List of a person desirous of carrying out tied insurance intermediaries activities for the undertaking under article 43 of the Act, as determined by this Chapter for the purpose of that article, in the manner set out in the Fifth Schedule to this Chapter or by accessing the [MFSA LH Portal](#)<sup>2</sup>.

<sup>1</sup> When applying online, refer to the [Note for Information entitled Application Forms in terms of the Insurance Distribution Act](#) issued by the MFSA on 23 April 2020.

<sup>2</sup> When applying online, refer to the [Note for Information entitled Application Forms in terms of the](#)

### **Manner of application for enrolment in the Ancillary Insurance Intermediaries List**

- 2.3.6 An undertaking authorised under the Insurance Business Act (Cap. 487) and an insurance agent enrolled under the Act is to submit an application to the competent authority for enrolment in the Ancillary Insurance Intermediaries List of a person desirous of carrying out ancillary insurance intermediaries activities under article 43E of the Act, as determined by this Chapter for the purpose of that article, in the manner set out in the Sixth Schedule to this Chapter or by accessing the [MFSA LH Portal](#)<sup>2</sup>.
- 2.3.7 An insurance broker enrolled under the Act is to submit an application to the competent authority for enrolment in the Ancillary Insurance Intermediaries List of a person desirous of carrying out ancillary insurance intermediaries activities under article 43E of the Act, as determined by this Chapter for the purpose of that article, in the manner set out in the Seventh Schedule to this Chapter or by accessing the [MFSA LH Portal](#)<sup>2</sup>.
- 2.3.8 Following notification of the competent authority's decision regarding the enrolment of the Ancillary Insurance Intermediary in the Ancillary Insurance Intermediaries List, where such person is also seeking to establish a branch in another Member State or intends to provide services in another Member State (cross-border business) the said person will also be required to obtain a LEI Code in line with [the Guidelines on Legal Entity Identifier](#).
- 2.3.9 A European insurance undertaking and an insurance intermediary registered under Article 3 of the Insurance Distribution Directive in a Member State or EEA State other than Malta establishing a branch or providing services in Malta in exercise of a European right is to submit an application to the competent authority for enrolment in the Ancillary Insurance Intermediaries List of a person desirous of carrying out ancillary insurance intermediaries activities for the undertaking or intermediary under article 43J of the Act, as determined by this Chapter, for the purpose of that article, in the manner set out in the Eighth Schedule to this Chapter or by accessing the MFSA LH Portal<sup>2</sup>.

## **2.4. Part B - Particulars of persons to be entered in the Tied Insurance Intermediaries List and the Ancillary Insurance Intermediaries List**

- 2.4.1 The particulars to be entered in the Tied Insurance Intermediaries List as determined by this Chapter for the purpose of article 36 of the Act are those set out in the Ninth Schedule to this Chapter.
- 2.4.2 The particulars to be entered in the Ancillary Insurance Intermediaries List as determined by this Chapter for the purpose of article 43D of the Act are those set out in the Tenth Schedule to this Chapter.

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[Insurance Distribution Act](#) issued by the MFSA on 23 April 2020.

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