

**BILL**  
**entitled**

*AN ACT to amend various financial services laws*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

**1.** The short title of this Act is the Various Financial Services Laws (Amendment) Act, 2022.

**PART I**

**AMENDMENTS TO THE INSURANCE BUSINESS ACT, CAP. 403**

Amendment of the Insurance Business Act. Cap. 403.

**2.** This Part amends and shall be read and construed as one with the Insurance Business Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of article 2 of the principal Act.

**3.** Sub-article (1) of article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition “Conduct of Business Rules”, there shall be added the following new definition:

“ “connected person” means a person whose information is provided to an authorised insurance undertaking by, or on behalf of, a policyholder, an insured or a claimant, or by or on behalf of, a person who seeks to become a policyholder of an authorised insurance undertaking, in connection with a contract of insurance, provided that the information is required by the authorised insurance undertaking for the purposes of fulfilling a statutory obligation;”;

(b) immediately after the definition “European Systemic Risk Board” there shall be added the following new definition:

“ “financial holding company” has the same meaning as is assigned to the term in point (20) of Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and

investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;”;

(c) immediately after the definition “functions”, there shall be added the following new definition:

“ "GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;”;

(d) immediately after the definition “Minister”, there shall be added the following new definitions:

“ “mixed activity holding company” has the same meaning as is assigned to the term in point (22) of Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

“mixed financial holding company” has the same meaning as is assigned to the term in point (15) of Article 2 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council;”.

Amendment of article 60 of the principal Act.

#### 4. Article 60 of the principal Act shall be amended as follows:

(1) in sub-article (2) thereof, for the words, “Without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), as amended from time to time, the collection,”, there shall be substituted the words, “Without prejudice to the GDPR, the collection,”; and

(2) immediately after subarticle (2) thereof, there shall be added the following new subarticle:

“(3) Notwithstanding the provisions of the Professional Secrecy Act and of article 257 of the Criminal Code, an authorised insurance undertaking may, where necessary for the proper carrying out of its activities or for the fulfilment of its obligations, communicate any information which is in its possession and which is related to the affairs of policyholders, potential policyholders, insureds, claimants or connected persons to:

(a) other members of the group of companies of which that authorised insurance undertaking forms part, which carry out any activities licensed or authorised by the competent authority under this Act, the Insurance Distribution Act, the Banking Act, the Trust and Trustees Act, the Investment Services Act, or the Financial Institutions Act, or which otherwise carry out activities equivalent to those activities mentioned in this paragraph and which are authorised by an overseas regulatory authority in a recognised jurisdiction, as well as the undertaking’s holding company or financial holding company or mixed financial holding company or mixed activity holding company, where this is necessary for the proper carrying out of its activities or for the fulfilment of its obligations or for the carrying out of risk management, audit or compliance processes of the undertaking or of the group of companies of which it forms part; or

(b) any auditor or expert engaged by the undertaking to carry out a compliance assessment, monitoring, auditing or a similar review in relation to any of the activities or risk management, audit or compliance process of the undertaking or of the group of companies of which it forms part or in order to assess the undertaking’s compliance with any statutory obligations relating to the prevention of money laundering and the funding of terrorism;

(c) an outsourcing service provider in whose favour an undertaking has outsourced any of its activities. This shall be without prejudice to the requirements under the Act, regulations and Insurance Rules on outsourcing:

Provided that, for the purposes of this sub-article, any such communication of information shall be made subject to all proper controls and safeguards, so that it shall be the responsibility of the undertaking to ensure that the group company member, including the undertaking’s holding company or financial holding company or mixed financial holding company or mixed activity holding company, the auditor or expert or the outsourcing service provider, as the case may be, is subject to equivalent obligations of data protection, confidentiality and care as required under Maltese law and any European Union law, including the GDPR:

Provided further that for the purpose of this article, advertising, marketing or promotion, shall not, under any circumstances, be considered as necessary for the proper carrying out of the activities of an undertaking or for the fulfilment of its obligations:

Provided further that communication of information made in terms of paragraphs (a) to (c) shall be without prejudice to any provision of the Prevention of Money Laundering Act and any Regulations issued thereunder.”.

## PART II

### AMENDMENTS TO THE INSURANCE DISTRIBUTION ACT, CAP. 487

Amendment of the Insurance Distribution Act. Cap. 487.

**5.** This Part amends and shall be read and construed as one with the Insurance Distribution Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of article 2 of the principal Act.

**6.** Sub-article (1) of article 2 of the principal Act shall be amended as follows:

(a) immediately after the definition “Conduct of Business Rules”, there shall be added the following new definition:

“ “connected person” means a person whose information is provided to a company or person registered and, or enrolled under the Act by, or on behalf of, a policyholder, an insured or a claimant , or by or on behalf of, a person who seeks to become a policyholder, in connection with a contract of insurance, provided that the information is required by the said company or person for the purposes of fulfilling a statutory obligation;”;

(b) immediately after the definition “European reinsurance undertaking” there shall be added the following new definition:

“ “financial holding company” has the same meaning as is assigned to the term in point (20) of Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;”;

(c) immediately after the definition “functions”, there shall be added the following new definition:

“ “GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

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(d) immediately after the definition “group” and “group of classes”, there shall be added the following new definition:

“holding company” has the same meaning as is assigned to the term “parent company” in the Companies Act;”;

(e) immediately after the definition “insurance manager”, there shall be added the following new definition:

“ “insured” has the same meaning as assigned to it by article 2(1) of the Insurance Business Act;”;

(f) immediately after the definition “Minister”, there shall be added the following new definitions:

“ “mixed activity holding company” has the same meaning as is assigned to the term in point (22) of Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

“mixed financial holding company” has the same meaning as is assigned to the term in point (15) of Article 2 of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council;”;

(g) immediately after the definition “officer”, there shall be added the following new definition:

“ “overseas regulatory authority” has the same meaning as assigned to it by article 2(1) of the Insurance Business Act;” and

(h) immediately after the definition “participation”, there shall be added the following new definition:

“ “policyholder” has the same meaning as assigned to it by article 2(1) of the Insurance Business Act;”.

Amendment of article 46 of the principal Act.

**4.** Article 46 of the principal Act shall be amended as follows:

(1) in sub-article (7) thereof, for the words, “in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the

protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), as amended from time to time.”, there shall be substituted the words, “in accordance with the GDPR.”; and

(2) immediately after subarticle (7) thereof, there shall be added the following new subarticle:

“(8) Notwithstanding the provisions of the Professional Secrecy Act and of article 257 of the Criminal Code, an enrolled company or a person registered and, or enrolled under the Insurance Distribution Act may, where necessary for the proper carrying out of its activities or for the fulfilment of its obligations, communicate any information which is in its possession and which is related to the affairs of policyholders, potential policyholders, insureds, claimants or connected persons to:

(a) other members of the group of companies of which that company or person forms part, which carry out any activities licensed or authorised by the competent authority under this Act, the Banking Act, the Trust and Trustees Act, the Investment Services Act, or the Financial Institutions Act, or which otherwise carry out activities equivalent to those activities mentioned in this paragraph and which are authorised by an overseas regulatory authority in a recognised jurisdiction, as well as the company’s holding company or financial holding company or mixed financial holding company or mixed activity holding company, where this is necessary for the proper carrying out of its activities or for the fulfilment of its obligations or for the carrying out of risk management, audit or compliance process of the intermediary or of the group of companies of which it forms part; or

(b) any auditor or expert engaged by the company or person registered and, or enrolled under the Act, to carry out a compliance assessment, monitoring, auditing or a similar review in relation to any of the activities or risk management, audit or compliance process of the intermediary or of the group of companies of which it forms part or in order to assess the company or person’s compliance with any statutory obligations relating to the prevention of money laundering and the funding of terrorism;

(c) an outsourcing service provider in whose favour a company or a person registered and, or enrolled under the Act has outsourced any of its activities. This shall be without prejudice to the requirements under the Act, regulations and Insurance Distribution Rules on outsourcing;

Provided that, for the purposes of this sub-article, any such communication of information shall be made subject to all proper controls and safeguards, so that it shall be the responsibility of the intermediary company or person registered and, or enrolled under the Act to ensure that the group company member, including the holding company or financial holding company or mixed financial holding company or mixed activity holding company of the enrolled company, the auditor or expert or the outsourcing service provider, as the case may be, is subject to equivalent obligations of data protection, confidentiality and care as required under Maltese law and any European Union law, including the GDPR:

Provided further that for the purpose of this article, advertising, marketing or promotion, shall not, under any circumstances, be considered as necessary for the proper carrying out of the activities of such company or person or for the fulfilment of its obligations:

Provided further that communication of information made in terms of paragraphs (a) to (c) shall be without prejudice to any provision of the Prevention of Money Laundering Act and any Regulations issued thereunder.”.