

08 August 2023

Circular on the Amendments to the Insurance Distribution Rules

1.0 Introduction

On 26 January 2023, the MFSA issued a [Consultation Document on the Proposed Amendments to the Insurance Distribution Rules](#). The purpose of the said Consultation Document was to amend a number of Insurance Distribution Rules in line with findings observed during regulatory work as well as other findings observed by the market whilst carrying out their operations. Following the lapse of the consultation period and internal discussions held on the feedback received, the MFSA is issuing this Circular together with a [Feedback Statement](#) on the amendments effected to the Insurance Distribution Rules.

2.0 Amendments to Chapter 1 of the Insurance Distribution Rules

Following the Consultation Document and the [Feedback Statement](#) issued on 7 August 2023, the MFSA is amending the **governing law** of the professional indemnity insurance policy to clarify that the said policy shall be governed by the law of a European Union Member State or the law of the United Kingdom. The MFSA also amended the **excess** under paragraph 1.9.7 of Chapter 1 of the Insurance Distribution Rules to be of a sum not exceeding 1% of the limit of indemnity and subject to a maximum of €50,000 as originally proposed in the Consultation Document. Furthermore, another main amendment effected by the MFSA pertains to the inclusion of a new limit of €100,000 when it comes to **loss of and damage to documents and records**. This amendment is also in line with the proposed Consultation Document.

The amendments proposed will be applicable upon renewal of their current professional indemnity insurance policies.

3.0 Amendments to Chapter 2 of the Insurance Distribution Rules

Another amendment being effected by the MFSA pertains to the removal of the **bank reference requirement** from Schedules 4 to 8 to Chapter 2 of the Insurance Distribution Rules as indicated in the Consultation Document. In this respect, following feedback received by the market, the MFSA is also amending Schedules 4 to 8 to refer to the term '**person concerned**' to align it with the definition of the same term indicated in paragraph 2.2.1 of Chapter 2 of the Insurance Distribution Rules.

Furthermore, in line with the Consultation Document, the MFSA is also publishing its own **pre-enrolment course outline** as an Annex to Chapter 2 of the Insurance Distribution Rules and is amending paragraph 2.2.11 of the Chapter 2 of the Insurance Distribution Rules to refer to the newly proposed Annex to the same Chapter. Moreover, the MFSA is also amending **paragraph 2.2.11** of Chapter 2 of the Insurance Distribution Rules to state that an authorised undertaking shall neither 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 the requirements listed therein are satisfied.

The amendments to the Insurance Distribution Rules on the pre-requisite qualifications when submitting an application for registration of individuals in the Agents Register, Managers Register or Brokers Register will become applicable on the date on which this Circular is issued.

The new Annex to Chapter 2 of the Insurance Distribution Rules shall be applicable as from the beginning of January 2024. In this respect, entities providing a pre-enrolment course shall submit the course outline to the competent authority for approval within four months from the date on which the Circular is issued.

4.0 Amendments to Chapter 4 of the Insurance Distribution Rules

Following the Consultation Document and the feedback received by the market, the MFSA is amending the **notification requirement** under the third proviso to paragraph 4.4.2 from 10 working days to that of 5 working days after the entry into force of the credit risk transfer agreement. The MFSA is also amending the First Schedule of Chapter 4 of the Insurance Distribution Rules to read that the value of own funds of enrolled persons and share capital of enrolled companies shall be €58,250 or 4% of the annual gross premium receivable **up to a maximum of €1,000,000**, whichever is the higher as proposed in the Consultation Document. The MFSA is also amending the First Schedule to read that the value of the own funds of enrolled persons and the minimum paid up share capital of the insurance managers indicated further above, should be **€19,510**, respectively.

The MFSA is also introducing a new Third Schedule to Chapter 4 of the Insurance Distribution Rules containing a **Declaration Form** to be submitted by an enrolled individual or enrolled company prior to entering into a Credit Risk Transfer Agreement with an insurance undertaking. In this respect, following feedback received from the market, the MFSA amended the said Declaration Form to also include a **signature of the Managing Director, CEO or General Manager of the entity**. The MFSA is also amending the definition of 'insurance undertaking' under Chapter 4 of the Insurance Distribution Rules and in the Second Schedule to same Chapter. By means of this amendment, any third country insurance undertaking which has obtained the necessary authorisations or permissions in the third country where its head office is situated and which has also obtained the necessary

permissions to operate in the European Union shall be captured under the definition of 'insurance undertaking' in accordance with Chapter 4 of the Insurance Distribution Rules and with the Second Schedule to the same Chapter.

The amendments proposed in relation to Chapter 4 of the Insurance Distribution Rules will become applicable on the date on which this Circular is issued.

5.0 Amendments to Chapter 8 of the Insurance Distribution Rules

The MFSA is also amending paragraph 8.3.7 of Chapter 8 of the Insurance Distribution Rules as proposed in the Consultation Document to read that all insurance monies are to be paid into the Tied Insurance Intermediaries Account or Ancillary Insurance Intermediaries Account by not later than the next **fifteen business days**. Additionally, in order to reflect current practice, the MFSA is also effecting a number of amendments in relation to **motor vehicle licence fees** and included a new proviso to state that motor vehicle licence fees received in relation to motor insurance business may be used by the intermediary to pay directly to the Authority for Transport in Malta as proposed in the Consultation Document. The amendments proposed in relation to Chapter 8 of the Insurance Distribution Rules will become applicable on the date on which this Circular is issued.

6.0 Amendments to Chapter 9 of the Insurance Distribution Rules

In line with the proposals in the Consultation Document, one of the main amendments effected to Chapter 9 of the Insurance Distribution Rules pertains to the amendment to sub-paragraph 9.4.2 (b) by including a new indent (iii). This amendment will provide that where an enrolled person or an enrolled company is part of a group of companies, a **guarantee** may be provided by an entity within the same group of companies, as the enrolled person or the enrolled company, to the satisfaction of the competent authority as a form of fidelity bond. The MFSA is also amending Section 9.5 of the same Chapter on the **nominations of approved persons** to distinguish between instances where the approved person is an individual and where the approved person is a body corporate. The amendments proposed in relation to Chapter 9 of the Insurance Distribution Rules will become applicable on the date on which this Circular is issued.

7.0 Amendments to Chapter 10 of the Insurance Distribution Rules

The MFSA is also amending Chapter 10 of the Insurance Distribution Rules by including a requirement for insurance undertakings to submit an **auditor's management letter** in the Introductory Section of the Chapter. In this respect, as proposed in the Consultation Document, a new sub-paragraph (d) in paragraph 10.1.1 of the same Chapter is being included. The MFSA is also introducing a **new Section 10.4** entitled 'Auditor's Management Letter', which lays down the requirements mentioned in the proposed subparagraph (d) of paragraph 10.1.1 of Chapter 10 of the Insurance Distribution Rules. Moreover, following

feedback received from the market, the MFSA is also amending Chapter 10 of the Insurance Distribution Rules to make reference to the term '**enrolled person**'.

The amendments proposed in relation to Chapter 10 of the Insurance Distribution Rules will become applicable on the date on which this Circular is issued.

8.0 Way Forward

The MFSA gathered the feedback received from the market following the lapse of the consultation period and is publishing a [Feedback Statement](#) highlighting the MFSA's replies to the comments raised by the market. It is to be noted that the MFSA received feedback in relation to Insurance Distribution Rules which have not been consulted upon. The MFSA acknowledges the said feedback and will be issuing further consultation in relation to the same, shortly.

9.0 Contact

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