

28 February 2024

Circular on the Amendments to Insurance Rules and Insurance Distribution Rules

1.0 Introduction

On 7 December 2023, the MFSA issued a [Consultation Document on the Proposed Amendments to the Insurance Rules and the Insurance Distribution Rules](#) (MFSA Ref: 11-2023) proposing amendments to:

- (a) Chapter 4 of Part A of the Insurance Rules on the Authorisation to Act as Approved Auditor;
- (b) Chapter 5 of Part B of the Insurance Rules on Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules;
- (c) Chapter 8 in Part B of the Insurance Rules on Financial Statements and Supervisory Reporting Requirements;
- (d) Chapter 12 in Part B of the Insurance Rules on Publicity Given To Notices To Cease To Carry On Business Of Insurance;
- (e) Chapter 1 of Part A of the Insurance Distribution Rules on The Application Process of Insurance Agents, Insurance Managers and Insurance Brokers;
- (f) Chapter 4 of Part A of the Insurance Distribution Rules on Own Funds of Persons Enrolled in the Agents List, Managers List or Brokers List carrying out Insurance Distribution Activities and Reinsurance Distribution Activities;
- (g) Chapter 6 of Part B of the Insurance Distribution Rules on Knowledge and Ability; and
- (h) Chapter 7 of Part B of the Insurance Distribution Rules on Continuous Professional Development.

The period to submit comments to the consultation has elapsed on 12 January 2024, and feedback was received from the market. The MFSA reviewed the feedback received and discussed further internally. Following the said discussions, a [Feedback Statement](#) is being published by the MFSA highlighting the comments raised by the insurance industry and the MFSA's replies thereto.

2.0 Amendments to Chapter 4 of Part A of the Insurance Rules

The Consultation Document proposed amendments with respect to the amounts of the professional indemnity cover and amendments to the excess clause in the indemnity insurance cover, to align the requirements with the amendments carried out following the [Consultation Document on the proposed Amendments to the Insurance Rules in January 2023](#) and EIOPA's publication on [changes to the minimum amount of professional indemnity insurance cover and financial capacity intermediaries](#). The proposed amendments contained a clause requiring the excess of the professional indemnity insurance to be subject to a maximum of €50,000. Following feedback received from the market and internal discussions, it was agreed that the new proposed €50,000 requirement will be removed and the excess will be limited only to a sum not exceeding 1% of the limit of indemnity.

The Consultation document also proposed changes with respect to the issuance of a bank guarantee in the event of inability to secure a policy of professional indemnity insurance satisfying the access. That amendment will be retained as proposed in the Consultation Document.

3.0 Amendments to Chapter 5 of Part B of the Insurance Rules

The amendments proposed to Chapter 5 were in relation to the introduction of a new obligation on the declaration and distribution of dividends, which is currently a licensing condition. The MFSA received feedback requesting for further clarification on the documentation to be submitted and time frames. In this respect, clarification has been provided in the feedback statement and the text proposed in the consultation will be retained as proposed in the Consultation Document.

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

The Consultation Document also proposed amendments to Chapter 8 of the Insurance Rules, in particular with respect to the submission of the audited financial statements and a new requirement for insurance undertakings to submit the Auditor's Management Letter in the Audited Financial Statements. Following feedback received from the industry, the MFSA notes that no changes will be made to the Chapter 8 of the Insurance Distribution Rules.

5.0 Amendments to Chapter 12 in Part B of the Insurance Rules

Following feedback received from the industry, the MFSA conducted some minor drafting amendments as suggested by the industry, however no further changes will be made to the Chapter 8 of the Insurance Distribution Rules.

The title to Chapter 12 will be amended to read Publicity Given To Notices To Cease To Carry On Business Of Insurance and the Schedule and the Annex to Chapter 12 will also be removed.

6.0 Amendments to Chapter 1 of Part A of the Insurance Distribution Rules

On 3 July 2023, EIOPA [published changes to the minimum amount of professional indemnity insurance cover and financial capacity intermediaries need under IDD](#). In this respect, the MFSA proposed amendments to Chapter 1 to amend the professional indemnity amounts that are currently stipulated under paragraph 1.9.6 of Chapter 1 to the Insurance Distribution Rules from €1,300,500 to €1,600,000 and €2,000,000 to €2,400,000.

It is to be noted that the European Commission is working on finalising an RTS to bring in force the changes indicated above. Once these changes are in place, the MFSA will be publishing Chapter to include the new requirements.

The minor amendments proposed in the Consultation Document to Chapter 1 of the insurance Distribution Rules will be taken on board.

7.0 Amendments to Chapter 4 of Part A of the Insurance Distribution Rules

The Consultation Document issued in December 2023 also proposed changes to Chapter 4 of the Insurance Distribution Rules following the publication of the document on the 3rd of July 2023 on [changes to the minimum amount of professional indemnity insurance cover and financial capacity intermediaries need under IDD](#). In this respect, it is to be noted that the European Commission is working on finalising an RTS to bring in force the changes proposed in the Consultation Document. Once these changes are in place, the MFSA will be publishing Chapter to include the new requirements.

The amendment to paragraph 4.6.2 of Chapter 4 of the Insurance Distribution Rules on the own funds of enrolled companies will be retained. Following feedback received from the industry, the MFSA notes that no further changes will be made to the Chapter 4 of the Insurance Distribution Rules.

8.0 Amendments to Chapter 6 of Part B of the Insurance Distribution Rules

The amendments proposed in the Consultation Document to Chapter 6 of the Insurance Distribution Rules required the introduction of two new sub-paragraphs (h) and (i) to paragraph 6.10.1 on the knowledge regarding the criteria of the sustainability preferences and ability. Following feedback received from the market, the MFSA clarified that these requirements only apply when the insurance-based investment product is being distributed on an advisory basis. In this respect, clarification was provided in the feedback statement and the legislation was also clarified to ensure that the obligation is clear in the said Chapter.

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

A number of amendments were proposed to Chapter 7 of the Insurance Distribution Rules in the Consultation Document. Clarifications were provided in the feedback statement, however the MFSA would like to note that no further changes will be made to the Chapter 7 of the Insurance Distribution Rules.

10.0 Applicability

The amendments to the Insurance Rules and Insurance Distribution Rules will come into force on the date of publication of this Circular.

11.0 Contacts

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