

# Feedback Statement on the Consultation on the Proposed Amendments to the Insurance Rules and the Insurance Distribution Rules

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## 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](#). The Consultation Document proposed to amend a number of Insurance Rules and 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. The period to submit comments has elapsed on the 12<sup>th</sup> January 2024.

Further to the said Consultation Document, the MFSA reviewed the comments received from interested parties and is now issuing a Feedback. In this respect, it is to be noted that the MFSA received drafting suggestions in relation to Chapter 12 of the Insurance Rules, which the MFSA has taken on board.

## 2.0 Main Comments Received on the Proposed Amendments to Chapter 4 in Part A of the Insurance Rules

### 2.1 Amendments relating to the introduction of a capping to the excess in Chapter 4 of the Insurance Rules

**2.1.1 *Industry Comment:*** *A market participant commented that the excess of the professional indemnity insurance would depend on the insurance purchased. In this respect, it was noted that appointed auditors typically require higher professional indemnity insurance coverage which necessitates a higher excess. Thus, the said market participant argued that imposing a capping is inappropriate and would be disadvantageous for such auditors.*

**MFSA's Position:** Following internal discussions, the MFSA will take on board the suggestions raised by the market, and will be removing the capping of €50,000 and retain only the percentage as proposed in the consultation as excess.

## 3.0 Main Comments Received on the Proposed Amendments to Chapter 5 in Part B of the Insurance Rules

### 3.1 Amendments relating to the declaration and/or distribution of dividends

**3.1.1 *Industry Comment:*** *A market participant noted that this proposed amendment is not a new requirement as this is already established in the licensing conditions of an authorised insurance undertaking. In view of the inclusion of this proposed amendment in Chapter 5 of the Insurance Rules, the same market participant suggested that this proposed amendment merits an enhancement to specify whether any specific detail is to be included within the prior authorisation submitted by the authorised insurance undertaking to the MFSA and whether any timeframe is required to seek the MFSA's authorisation. This in view of the fact that the financial statements include the declaration of dividends at the time of submission.*

**MFSA's Position:** As the market participant rightly pointed out, this is not a new requirement, and was entrenched in the licensing conditions of every licence holder, and therefore licence holders are already aware of the documentation and timelines of the said request. Having said that, the documentation which the MFSA usually requests are the impact on the solvency ratio post the issue of the dividend and the board resolution regarding the distribution of the dividend. The MFSA reserves the right to request any other documentation it may require to conduct its assessment. With respect to timelines, if the Authority has all the information necessary to assess such declaration or distribution, it would be able to provide its approval within three weeks, depending on the complexity of the case. However, it is to be noted that should the case be more complex, this might take a bit longer.

## 4.0 Main Comments Received on the Proposed Amendments to Chapter 8 in Part B of the Insurance Rules

### 4.1 Amendments to the submission of audited financial statements

**4.1.1 *Industry Comment:*** *Whilst understanding that the proposed amendment aims to align the deadline for the submission of the insurance holding company's audited financial*

*statements with the timeline of the other insurance group reporting, a market participant raised its concern with respect to the case of local group IFRS consolidation. It was noted that the insurance holding audited financial statements are included in the IFRS group's audited financial statements. The said market participant stated that, given the tight solo annual reporting submissions to be made within 14 weeks from year-end, issues might be encountered in terms of the management of submissions of group reporting (RSR and annual QRTs) together with consolidated audited financial statements in the 6 weeks that follow. In this respect, the same market participant proposed the retention of the submission deadline for the holding company's audited financial statements as it currently is.*

**MFSA's Position:** The MFSA would like to clarify that the requirement included in the Insurance Rules is to submit audited financial statements of an insurance holding company which is part of an insurance group, to the competent authority by no later than 20 weeks after the financial year end of the participating insurance or reinsurance undertaking, the ultimate insurance holding company or the ultimate mixed financial holding company. The 6 months requirement applies only to a mixed activity insurance holding company.

**4.1.2 Industry Comment:** *Clarification was sought as to why the legislation is referring to 2019 and 2020 and not financial statements from 2024 onwards.*

**MFSA's Position:** Following internal discussions, the MFSA will be taking on board the comments raised and will be amending the text to refer to 2024 onwards.

## 5.0 Main Comments Received on the Proposed Amendments to Chapter 1 in Part A of the Insurance Distribution Rules

### 5.1 Amendments to Provisions on Professional Indemnity Limits

**5.1.1 Industry Comment:** *A market participant highlighted that paragraph 1.9.6 of the draft version of Chapter 1 of the Insurance Distribution Rules refers to the minimum limit of indemnity in the aggregate of 2,350,000 Euro per year for all claims, as opposed to the proposed 2,400,000 Euro.*

**MFSA's Position:** The MFSA notes the comments raised and will be amending the Insurance Rule to align it with the new requirements once the legislation is issued on the Official Journal of the European Union.

## 6.0 Main Comments Received on the Proposed Amendments to Chapter 6 in Part B of the Insurance Distribution Rules

### 6.1 Amendments in relation to the customer's sustainability preferences under the IDD suitability assessment

**6.1.1 *Industry Comment:*** A market participant requested clarification as to whether the MFSA would like to apply the proposed inclusion of sub-paragraphs (h) and (i) under paragraph 6.10.1 of Chapter 6 of the Insurance Distribution Rules to all levels of service, including non-advisory service.

**MFSA's Position:** The MFSA would like to clarify that with reference to the changes introduced under paragraphs 6.10.1 (h) and (i) with regards to the minimum necessary knowledge that relevant person and relevant employee should have on the sustainability preferences when selling IBIPs, applies only when the product is being sold on an advisory basis. Where no advisory services are provided, it is not expected that this requirement is fulfilled. The MFSA has amended the legislation to clarify the said requirement.

## 7.0 Main Comments Received on the Proposed Amendments to Chapter 7 in Part B of the Insurance Distribution Rules

### 7.1 Amendments in relation to the continuous professional development assessments

**7.1.1 *Industry Comment:*** A market participant requested clarification as to whether a web-based learning activity also refers to online training which does not involve any human interaction. In this respect, the same market participant also requested clarification as to whether a course, conference or seminar delivered online by an external service provider would not fall within the definition of a web-based learning activity and would therefore be exempt from an assessment.

**MFSA's Position:** The MFSA would like to clarify that any online training whether it is through Teams/Zoom/Webex or it is delivered through an off the shelf platforms, is expected to

contain an assessment. For the sake of clarification whether the course is provided online by a physical person or whether the system provides off-the-shelf (ready made) online training courses that contain ready-made content delivered through pre-built courses, both type of courses require an assessment. A certificate should then be issued upon completion of the assessment. When the MFSA refers to an assessment, it is to be noted that we are not after any complex or laborious assessment, but a simple multiple-choice questionnaire which can be sent via one of these internet survey tools following the session will suffice. It is important that the industry understands that some type of assessment is needed in order to ensure that staff would have actively participated to the session.

**7.1.2 Industry Comment:** *A market participant requested clarification as to whether all external providers' training, either web-based or otherwise, can be classified as structured continuous professional development provided that a certificate of attendance is provided, thus not requiring the successful completion of an assessment.*

**MFSA's Position:** The MFSA would like to clarify that any online training whether it is provided internally or externally requires an assessment. Whether the said online training is delivered through Teams/Zoom/Webex by a physical person or is an off the shelf training platform, an assessment is to be carried out. The matter was also clarified by amending the section on Web based learning in Chapter 7 of the Insurance Distribution Rules.

**7.1.3 Industry Comment:** *A market participant proposed the inclusion of a definition of the term 'course' for clarification purposes.*

**MFSA's Position:** The MFSA would again like to clarify that a course can be defined as one lesson or a set of lessons that a person can attend to become educated on a particular topic, which content is then tested by means of an assessment.

## 8.0 Way Forward

A Circular informing market participants on the applicability of the proposed amendments to the Insurance Rules and the Insurance Distribution Rules will be issued together with this Feedback Statement.

## 9.0 Contacts

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