

27 March 2024

Circular on the Amendments to Chapter 1 and Chapter 4 of the Insurance Distribution Rules

1.0 Introduction

The MFSA is amending Chapter 1 and Chapter 4 of Part A of the Insurance Distribution Rules to bring it in line with the Commission Delegated Regulation (EU) 2024/896 of 20 March 2024 amending Directive (EU) 2016/97 of the European Parliament and of the Council with regard to regulatory technical standards adapting the base euro amounts for professional indemnity insurance and for financial capacity of insurance and reinsurance intermediaries (hereinafter referred to as the “Commission Delegated Regulation”). The purpose of this circular is to provide information on the said amendments, following the publication of the said law, the Consultation Document issued on 7 December 2023 on the Proposed Amendments to the Insurance Rules and the Insurance Distribution Rules and the Feedback Statement and Circular issued on 28 February 2024 on the amendments to the Insurance Rules and Insurance Distribution Rules.

2.0 Professional Indemnity Limits

Article 10(4) of Directive (EU) 2016/97/EC of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (hereinafter referred to as the “IDD”), provides the minimum limits of indemnity applicable to the professional indemnity insurance which an insurance intermediary is required to hold. The applicable limits found in Article 10(4) of the IDD are for at least €1,300,380 applying to each claim and in aggregate €1,924,560 per year for all claims. The applicable limits found in Article 10(4) of the IDD are transposed in paragraph 1.9.6 of Chapter 1 of the Insurance Distribution Rules.

Furthermore, paragraph (b) of the second paragraph of Article 10(6) of the IDD provides that an intermediary is to have a financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of EUR 19 510. The said provisions have been transposed in the Second Schedule to Chapter 4 of the Insurance Distribution Rules.

Article 10(7) of the IDD states that the European Insurance and Occupational Pensions Authority (EIOPA) shall regularly review the amounts referred to in paragraphs 4 and 6 in order to take account of changes in the European index of consumer prices as published by Eurostat.

The Commission Delegated Regulation states that over the period 1 January 2018 through 31 December 2022, the European index of consumer prices produced for the Union by Eurostat has increased by 20,32 %. As a result, the base amounts should be adapted by that percentage increase.

3.0 Amendments to Section 1.9 of Chapter 1 of the Insurance Distribution Rules - Professional Indemnity Insurance Guidelines

As a consequence to the above, the MFSA is amending paragraph 1.9.6 of Chapter 1 of the Insurance Distribution Rules so that the required minimum limited of indemnity shall be not less than €1,600,000 in respect of each and every claim and in aggregate €2,350,000 per year for all claims.

It is to be noted that the amounts indicated in paragraph 1.9.6 are the minimum amounts which an insurance intermediary is required to hold. The MFSA expects insurance intermediaries to take into account the size and nature of the insurance distribution activities and reinsurance distribution activities carried out in Malta, when deciding the amount of indemnity their policy of professional indemnity insurance will be covering.

Insurance intermediaries are required to revise the limits of their policy, as at renewal of their current professional indemnity insurance policies.

4.0 Amendments to the First Schedule of Chapter 4 of the Insurance Distribution Rules - Value of the Own Funds of Enrolled Persons and Share Capital of Enrolled Companies

As a consequence to the above, the MFSA is amending points 2 (a) and (b) of the Second and the Fourth Column to the First Schedule of Chapter 4 of the Insurance Distribution Rules, to change the value from €19,510 to €23,480 and align it with the new requirements.

5.0 Contacts

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