

User Guidelines – Insurance Business (Protection and Compensation Fund) Regulations, 2024

The title of these reissued regulations is the *Insurance Business (Protection and Compensation Fund) Regulations, 2024* (hereinafter referred to as ‘the new PCF Regulations’). The objective of the new PCF Regulations is to transpose certain provisions of Directive (EU) 2021/2118 of the European Parliament and of the Council of 24 November 2021 amending Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability. Directive (EU) 2021/2118 shall hereinafter be referred to as the “Amending Directive”.

In order to partially transpose the Amending Directive, the following has been undertaken:

- i. the revocation of the Protection and Compensation Fund Regulations (S.L. 403.13); and
- ii. the issuance of a new set of regulations, entitled Insurance Business (Protection and Compensation Fund) Regulations - hereinafter referred to as “the new PCF Regulations”.

The principal reason for revoking the current PCF Regulations and, issuing a new set of regulations, is because the amendments to S.L. 403.13 were extensive.

The Amending Directive created a new obligation on Member States to set up or authorise a body to provide compensation to injured parties residing within their territory for damage to property or personal injuries caused by a vehicle insured by an insurance undertaking, both whether authorised in Malta or in any other EU Member State.

In this respect, the Amending Directive has created an obligation on such body, to provide initial compensation to injured parties residing within its territory, and insofar as the insurance undertaking is authorised by a Member State outside Malta, such body consequently has the right to request reimbursement from the body set up or authorised for the same purpose in the home Member State of the insolvent insurance undertaking which issued the policy of the vehicle of the liable party.

It is important to note, however, that in Malta, a body to provide compensation for claimants of an insolvent insurance undertaking for scenarios where the injured party resides in Malta and the insurance undertaking is licensed in Malta, already existed. This body is called the Protection and Compensation Fund (hereinafter referred to as the “PCF”).

The already-existing PCF's remit is limited to collecting contributions from insurance undertakings with head office in Malta, underwriting motor insurance business in Malta. Due to the new obligation imposed by the Amending Directive, the PCF now needs to be amended and extended to cover third party motor insurance risks underwritten by insurers with head office in Malta, covering motor insurance risks situated in a Member State outside of Malta.

The new PCF Regulations ensure that insurance undertakings which have a head office in Malta and which underwrite third party motor insurance business in a Member State outside of Malta, contribute to the said PCF so that they are also covered by the PCF, should there be an insolvency of an insurance undertaking with head office in Malta.

These User Guidelines should be read in conjunction with, and as supplementary guidance to, the Regulations and should not be deemed to substitute a thorough reading thereof.

In case of any queries in relation to the Regulations, the MFSA may be contacted on ipsu@mfsa.mt or +356 21441155.