

User Guidelines – Insurance Business (Reorganisation and Winding up of Insurance Undertakings) (Amendment) Regulations, 2024

The title of these regulations is Insurance Business (Reorganisation and Winding up of Insurance Undertakings) (Amendment) Regulations, 2024, hereinafter referred to as the (“Amending Regulations”).

Hence, the aim of these Regulations is to amend the Insurance Business (Reorganisation and Winding up of Insurance Undertakings) Regulations, (S.L. 403.15), hereinafter referred to as “the Regulations”.

By way of background, 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, (‘the Amending Directive’), has created a new obligation on Member States to set up or authorise a body to provide compensation for 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 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 exists. This body is called the Protection and Compensation Fund (hereinafter referred to as the “PCF”). The current PCF is limited to collect 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.

Henceforth, the Amending Regulations seek to ensure that motor insurance claims rank *before* any other insurance claim. This will ensure that victims who have been injured by a vehicle have a greater chance of getting paid, even when the insurance undertaking insuring the party which caused the accident goes insolvent.

The Amending Regulations amend regulation 11 of the said Regulations to introduce a following new proviso to the said regulation 11: *“Provided further that motor insurance claims in relation to claims underwritten under class 10 as specified in Part I of the Third Schedule to the Act, shall rank before any other insurance claim.”*

Furthermore, regulation 12 of the existing Regulations stipulates that where the rights of insurance creditors have been subrogated to the PCF, the latter cannot benefit from the ranking as per current regulation 11. Therefore, without having deleted regulation 12, the PCF would have equally not been able to benefit from this ranking, including the ranking newly introduced in virtue of the proviso to regulation 11. Hence, regulation 12 has also been deleted so that the PCF can also benefit from the ranking afforded by regulation 11.

These User Guidelines should be read in conjunction with and as supplementary guidance to the Regulations and should not in any way be deemed to substitute a thorough reading thereof. In the event of any conflict existing between the content of these User Guidelines and the

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