

16 April 2025

Circular on Group Insurance and Bancassurance

1.0 Background

On 29 September 2022, the European Court of Justice ('ECJ') delivered its ruling in the Case C-633/20 between the Federal Union of Consumer Organisations and Associations, Germany and TC Medical Air Ambulance Agency GmbH concerning the definition of 'insurance intermediary' in the context of the Insurance Distribution Directive ('IDD'). The proceedings concerned the alleged unauthorised insurance mediation activity being carried out by TC Medical Air Ambulance Agency GmbH. The ECJ's decision has licensing implications for certain entities which are now being deemed to be carrying out insurance distribution activities in Malta, according to this judgement.

2.0 Main Points Arising from the Case

In the ruling, the Court reaffirmed that *"in order to ensure that the activity of an insurance intermediary guarantees an adequate level of consumer protection, that intermediary is required, in accordance with those directives, to comply with, inter alia, a set of professional, financial and organisational requirements, rules of conduct such as those aimed at preventing the risk of a conflict of interest arising from any links between that intermediary and a given insurer, and with obligations to inform and advise those consumers"*.

The ECJ ruled that the definition of an insurance intermediary and, therefore, that of an insurance distributor, also encompasses *"a legal person whose activity consists in offering its customers membership on a voluntary basis, in return for payment which it receives from them, of a group insurance policy to which it has subscribed previously with an insurance company, where that membership entitles those customers to insurance benefits in the event, in particular, of sickness or accident abroad"*.

The ECJ's decision extended the licensing requirements to such legal persons which, like the defendant in this case, would be policyholders of an insurance undertaking and would offer their consumers memberships in such a group insurance policy, which entitles them to insurance benefits. As a result, this decision has broadened the definition of insurance intermediary within the scope of the IDD.

3.0 Current Legal Situation in Malta

In Malta, the current situation so far has been that legal entities (such as employers, Banks, retail companies) considered as policyholders under a group insurance policy (referred also as a 'Master policy') do not require an insurance licence as an insurance intermediary on the basis that such entities are the policyholders and that by allowing additional members onto that policy they are merely extending their cover to these new members (their clients). The recent judgement necessitates the revision of such arrangements.

4.0 Bancassurance in Malta

Bancassurance refers to the arrangement by virtue of which an insurance company allows a Bank with whom it has an agreement (usually a TII relationship) to sell its products to Bank's client base. This practice has been present in practice in Malta and Europe for a long time and is particularly popular in the life assurance sector.

On 1 October 2006 the MFSA had adopted a policy, following consultations with the Ministry of Finance, according to which:

"Licensed Credit and Financial institutions may not directly or indirectly be involved in insurance intermediaries activities, including the marketing and sales of general insurance products, except to act as Tied insurance intermediaries in accordance with the Insurance Intermediaries Act (Cap 487) in classes of long-term insurance business and the following classes of general insurance business:

- *Class 14 - restricted to export credit contracts of insurance;*
- *Class 1, 2 and 16 – restricted to payment protection contract of insurance issued in relation to loan payments."*

In the past years, Banks and insurers are entering into an arrangement where a 'master policy' (referred to as a group policy) was underwritten in the name of the Bank which takes out an insurance policy for the benefit of a certain identifiable group. Each member of the group is then enrolled by the Bank who acts as sponsor, under the master policy and receives a certificate or evidence of insurance. The Bank would usually receive some form of compensation (commission) for its administration of the master policy program.

Currently, the prevailing opinion so far has been that Banks under a master policy do not require an insurance licence as an insurance intermediary in view that they act as policyholders and beneficiaries under the said policy and that they are allowing further beneficiaries under their own insurance policy. However, following the ECJ ruling, such master policies are deemed comparable to the traditional activity of an insurance intermediary carrying out insurance distribution.

In view of the above, Banks would be required to extend their tied insurance intermediary licence, however, this would conflict with the Bancassurance Policy, referred to above, as such the policy referred to above required to be amended.

5.0 Revision of the Policy

As a result of the above, the MFSA held numerous discussions with a number of stakeholders, where it proposed to extend the current Bancassurance policy to allow Banks and financial institutions to operate as tied insurance intermediaries of insurance undertakings with respect to the following policies: Home Contents, Travel and Private Individual Health insurance.

Following discussions undertaken above and further internal discussions, the MFSA considers that the promotion of competition and increased uptake of non-life insurance products by consumers such as health insurance would be beneficial to Maltese consumers. In the light of the above, in consideration of the ECJ ruling, and in order to mitigate the risks noted above, a revision of the MFSA Bancassurance Policy would be necessary. As a result, the MFSA will be revising the policy to state the following:

“Licensed Credit and Financial institutions may not directly or indirectly be involved in insurance intermediaries activities, including the marketing and sales of general insurance products, except to act as Tied insurance intermediaries in accordance with the Insurance Intermediaries Act (Cap 487) in classes of long-term insurance business and the following classes of general insurance business:

- *Classes 1, 2 and 16 - restricted to payment protection contracts of insurance issued in relation to loan repayments and individual health policies;*
- *Classes 8, 9, 13 - related to home policies covering all aspects of residential property ownership;*
- *Classes 1, 2, 7, 8, 9, 13, 18 - restricted all types of single or annual travel policies and*
- *Classes 14 - restricted to export credit contracts of insurance.”*

6.0 Amendments to Chapter 1 and 2 of the Insurance Distribution Act

On 5 March 2025, the MFSA issued a Consultation Document on the Proposed Amendments to the Insurance Rules and Insurance Distribution Rules, which elapsed on 26 March 2025. One of the proposed amendments related to amendments to Chapter 1 and Chapter 2 of the Insurance Distribution Rules to clarify that the applicant will be required to be registered and enrolled where it intends to conduct activities which consists in offering membership in a group insurance policy and where:

- a) the membership is offered on a voluntary basis;
- b) the membership entitles the customer provides insurance benefits; and
- c) the individual will be remunerated for the activity carried out.

Following the lapse of the consultation, the MFSA is also issuing a [Feedback Statement](#), and a [Circular](#) on the amendments to Insurance Rules and Insurance Distribution Rules, providing further clarification to the industry. As a result of the comments raised, the MFSA will be amending slightly the wording to Chapter 1 and Chapter 2 of the Insurance Distribution Rules.

3.0 Applicability

Accordingly, as from 5 May 2025, the MFSA will be in a position to accept applications for enrolment or extension of their enrolment, as applicable in the Tied Insurance Intermediaries List of credit and financial institutions to carry on tied insurance intermediaries activities in the classes of general insurance restricted to the contracts of insurance indicated above by compiling the Fourth Schedule to Chapter 2 of the Insurance Distribution Act and submit it through the LH portal.

Furthermore, insurance distributors which are not in line with the requirements of Chapter 1 and Chapter 2 of the Insurance Distribution Rules be required to be aligned with the new requirements by 20 October 2025.

4.0 Contacts

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