MFSA MALTA FINANCIAL SERVICES AUTHORITY

Circular

16 November 2026

Circular in Relation to the Right to be Forgotten for Clients with Medical History of Oncological Diseases and Relative Changes to the Conduct of Business Rulebook - Applicable with effect from 20 November 2026

Introduction

This Circular is addressed to **Insurance Undertakings and Insurance Intermediaries** offering insurance policies in connection with credit agreements, credit agreements relating to residential immovable property, or any other contract or agreement ancillary thereto.

This Circular seeks to highlight staggered amendments to the Rulebook applicable to Insurance Undertakings and Intermediaries which became necessary following the enactment of Protection against adverse consequences for persons who recovered from Oncological Diseases (Right to be Forgotten) Act (Chap. 657 of the Laws of Malta) (herein referred to as the Right to be Forgotten Act, which Act will come into force as from 1 January 2027.

Background

Reference is made to MFSA Circular dated 21 November 2025 whereby Insurance Undertakings and Insurance Intermediaries were informed of Article 14(4) of CCD II and its relative transposition within the Rulebook, which confers the right to be forgotten on cancer survivors when purchasing insurance policies related to credit agreements.

In this regard, the text which had been introduced in the Rulebook at the time, read as follows, and was intended to become applicable from 20 November 2026:

R.4.1.48A - Personal data concerning clients' diagnosis of oncological diseases shall not be used during the following timeframes and for the following age groups, for the purposes of underwriting an insurance policy related to a credit agreement:

(a) Ten (10) years for clients who were twenty-one (21) years of age and or over at the time of their last oncology treatment

(b) Five years (5) years for those clients who were below twenty-one (21) years of age at the time of their last oncology treatment.

R.4.1.48B - In order for clients to have additional time to compare insurance offers related to consumer credit agreements before purchasing an insurance policy, Regulated Persons shall ensure that clients are given at least three (3) days to compare insurance offers related to

credit agreements without such offers being changed, and clients shall be informed thereof. Clients may conclude an insurance policy prior to the expiry of that three-day period if they explicitly so request.

R.4.1.48C - For the purposes of Rules R.4.1.48A and R.4.1.48B credit agreement shall have the same meaning as defined in Article 2 (2) and Article 3 (3) of Directive EU/2023/2225 of the European Parliament and of the Council of 18 October 2023 on credit agreements for consumers and repealing Directive 2008/48/EC (Consumer Credit Directive II)

However, the Authority would like to bring to your attention that the captioned Rules need to be amended to align with the Right to be Forgotten Act which will come into effect on 1 January 2027. The Act establishes the right to be forgotten for cancer survivors, preventing unfair treatment to clients, when giving life insurance contracts or any other contract or agreement ancillary thereto, once a specified period has elapsed after successful treatment. The standard period is 10 years, reduced to 5 years, where the end of treatment occurred before the age of 25 years. The above Rulebook text sets the relevant age threshold at 21 years and is thus not aligned with this requirement.

Under the Right to be Forgotten Act, Insurance Undertakings and Insurance Intermediaries shall not request, use, or take into account medical records relating to the diagnosis and treatment of any oncological disease when assessing any life insurance contract, or any other contract or agreement ancillary thereto, after a specific established period has elapsed. Any contractual clause/s that conflicts with the right to be forgotten shall cease to have effect. This, even for contracts concluded before 1 January 2027, and such clause/s shall be considered null and void, although the remainder of the contract remains valid.

The Right to be Forgotten Act seeks to ensure that clients who have recovered from cancer are not disadvantaged in accessing life insurance policies, or any other contract or agreements ancillary thereto, because of a past oncological disease, once sufficient time has passed since end of oncological treatment.

It is also important to note that the Right to be Forgotten Act was published after the publication of the above referenced Circular, hence the need to re-align the Rulebook. The Authority has considered amending applicable age thresholds at this stage, to bring these immediately in line with that of the Right to be Forgotten Act in order to avoid a situation where operators would need to update their systems within a very short timeframe to meet the new thresholds in the Right to be Forgotten Act.

Amendments to the Rulebook

(A) Rules to Apply between 20 November 2026 and 31 December 2026

In view of the above and with a view to align the Rulebook with the Right to be forgotten Act, whilst also remaining in line with Article 14(4) of CCD II and its timeframes, **Rule 4.1.48A** is being temporarily amended as follows. The revised Rule R.4.1.48A here below will come

into force on 20 November 2026 and shall remain applicable until 31 December 2026, and will only apply in the context of insurance policies issued to cover consumer loans (in line with CCD II requirements).

R.4.1.48A Personal data relating to a client's diagnosis of oncological diseases shall not be used for the underwriting of insurance policies related to credit agreements after:

(a) 10 years from the date of end of treatment without relapse for clients who were 25 years of age or older on the date of diagnosis; and

(b) 5 years from the date of end of treatment without relapse for clients who were below 25 years of age on the date of diagnosis.

For the purposes of this Rule:

(i) "date of diagnosis" means the first day a qualified medical professional determines a person has an oncological disease.

(ii) "date of end of treatment" means the date of the last active treatment in accordance with the applicable medical protocol;

(iii) "oncological disease" means any disease involving abnormal growth and spread of cells in the body, commonly known as cancer;

(iv) "relapse" means the recurrence of the oncological disease following the end of treatment, and shall not include any other health issues which may arise during the period following the end of treatment even if emanating as a direct consequence of the oncological disease.

R.4.1.48B and R.4.1.48C (as quoted further above) will remain unchanged till 31 December 2026.

(B) Rules to Apply from 1 January 2027 onwards

As from the **1 January 2027**, Rule 4.1.48A (as revised above) will then be deleted together with current Rules R.4.1.48B and R.4.1.48C which are related thereto, and replaced by the below new Rules to make direct cross-reference to the Right to be Forgotten Act as the applicable law in these situations, covering life insurance policies issued both in the context of consumer credit as well as in the context of mortgage credit.

Furthermore, the right afforded to consumers under Article 14(5) of CCD II to compare insurance offers within a three-day period is being extended to credit agreements relating to residential immovable property. This extension is intended to strengthen consumer protection by ensuring that borrowers benefit from the same opportunity to assess and compare insurance products before making a commitment, while also promoting regulatory alignment between the consumer credit (under CCD II) and the mortgage credit (under the Mortgage Credit Directive).

R.4.1.48D - When issuing any life insurance policy or any other contract or other agreement ancillary thereto, Regulated persons shall abide by the requirements of Protection against adverse consequences for persons who recovered from oncological disease (Right to be Forgotten) Act (Chapter 657 of the Laws of Malta) as may be amended from time to time.

R.4.1.48E - In order for clients to have additional time to compare insurance offers related to credit agreements, credit agreements relating to residential immovable property, or any other contract or agreement ancillary thereto, before purchasing an insurance policy, Regulated Persons shall ensure that clients are given at least three (3) days to compare insurance offers related to credit agreements, credit agreements relating to residential immovable property, or any other contract or agreement ancillary thereto without such offers being changed, and clients shall be informed thereof. Clients may conclude an insurance policy prior to the expiry of that three-day period if they explicitly so request.

R.4.1.48F- For the purposes of Rules R.4.1.48E credit agreement shall have the same meaning as defined in Article 2 (2) and Article 3 (3) of Directive (EU) 2023/2225 - Consumer Credit Directive II (CCD II), *whilst credit agreements relating to residential immovable property shall have the same meaning as defined in Article 3(1)(a) and (b) of Directive 2014/17/EU - Mortgage Credit Directive* (MCD).

Conclusion and the Way Forward

For avoidance of doubt, R.4.1.48A (as revised), R.4.1.48B and R.4.1.48C (both unchanged), will come into force on 20 November 2026 and will remain applicable until 31 December 2026.

However, these 3 Rules will no longer be in force after 31 December 2026 and will be replaced with Rules R.4.1.48D, R.4.1.48E and R.4.1.48F which will apply as from the 1 January 2027 to coincide with the coming into force of the Right to be Forgotten Act.

Contacts

Should you have any queries regarding the above, please do not hesitate to contact us via: conduct.policy@mfsa.mt.