

SUBSIDIARY LEGISLATION 403.09
INSURANCE BUSINESS
(APPROVED AUDITOR) REGULATIONS

1st January, 2001

LEGAL NOTICE 105 of 2000, as amended by Legal Notices 426 of 2007, 145 of 2009 and 393 of 2015.

1. The title of these regulations is the Insurance Business (Approved Auditor) Regulations. Citation.

2. (1) In these regulations, unless the context otherwise requires - Interpretation.
Amended by:
L.N. 145 of 2009;
L.N. 393 of 2015.
Cap. 403.

"the Act" means the Insurance Business Act;

"approved auditors list" means the list of audit firms acting as approved auditor established and maintained under regulation 3;

"approved auditors register" means the approved auditors register established and maintained under regulation 3;

"audit firm" shall have the same meaning as is assigned to it by article 2 of the Accountancy Profession Act; Cap. 281.

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"Insurance Rules" has the same meaning as is assigned to it by article 2 of the Act for the purposes of carrying into effect certain provisions of article 21 of the Act and of these regulations,

and the words and expressions which are also used in the Act have the same meanings as in the Act.

(2) In these regulations any reference to an "insurance undertaking" shall be deemed to be a reference to an authorised insurance undertaking or authorised reinsurance undertaking which has received authorisation pursuant to article 7 of the Act to carry on business of insurance in or from Malta, or in or from a country outside Malta, or a person enrolled in the Agents List, Managers List or Brokers List in terms of the Insurance Distribution Act. Cap. 487.

3. The competent authority shall establish and maintain -

- (a) a register of individual persons authorised to act as approved auditor, in these regulations referred to as "the approved auditors register", and
(b) a list of audit firms authorised to act as approved auditor, in these regulations referred to as "the approved auditors list",
- The approved auditors register and the approved auditors list.
Amended by:
L.N. 145 of 2009;
L.N. 393 of 2015.

in every case, containing the names, principal places of business and such other particulars as the competent authority may, from time to time, by Insurance Rules determine, of all persons and audit firms who are entitled under these regulations to be registered in

the approved auditors register or enrolled in the approved auditors list in the manner determined for such purpose by Insurance Rules.

Application for
authorisation to act
as approved
auditor.

Amended by:
L.N. 426 of 2007;
L.N. 145 of 2009
L.N. 393 of 2015.
Cap. 386.
Cap. 281.

4. (1) No person who is qualified to be an auditor in accordance with the Companies Act shall accept an appointment to audit insurance undertakings accounts unless that person holds an authorisation to act as approved auditor issued by the competent authority under these regulations.

(2) Any individual person who holds a warrant to act as auditor issued under the Accountancy Profession Act and satisfies the qualifications determined for such purpose by Insurance Rules and any audit firms duly registered under the said Act which satisfies the requirements determined for such purpose by Insurance Rules may make application in writing to the competent authority in the form and manner determined for such purpose by Insurance Rules and providing the information required to be provided therein for the issue under these regulations of an authorisation to act as approved auditor.

(3) Any person who acts in contravention of the provisions of sub-regulation (1) shall be guilty of an offence and shall be liable on conviction for each offence, in respect of the first offence to a fine (*multa*) not exceeding one thousand and two hundred euro (€1,200) and in respect of a second or subsequent offence to a fine (*multa*) not exceeding six thousand euro (€6,000), and in the case of a continuing offence, to an additional fine (*multa*) not exceeding one hundred and twenty euro (€120) for each day during which the offence continues.

Grant of
authorisation.
Amended by:
L.N. 426 of 2007;
L.N. 393 of 2015.

5. (1) The competent authority may under these regulations grant an applicant authorisation to act as approved auditor only if it is satisfied, on the basis of the information provided by the applicant under these regulations and any information received by it, that authorisation ought to be granted.

(2) Subject to the provisions of the Act and of these regulations, the competent authority may subject any authorisation issued or held under these regulations to such conditions and limitations as it may, from time to time, deem fit to impose.

(3) On granting an applicant authorisation to act as approved auditor under these regulations, the competent authority shall -

- (a) in the case of an applicant who is an individual, register the applicant in the approved auditors register; and
- (b) in the case of an applicant which is an audit firm, enrol the applicant in the approved auditors list.

(4) Any person who, for the purpose of obtaining an authorisation under these regulations, gives any wrong information or otherwise acts in a deceitful or fraudulent manner, or any person who fails to comply with any condition or limitation imposed in the authorisation by the competent authority under subregulation (2), shall be guilty of an offence and shall be liable on conviction for each offence to a fine (*multa*) not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) or to

imprisonment not exceeding six months or to both such fine and imprisonment.

6. (1) The competent authority may, at any time, suspend or revoke an authorisation issued or held under these regulations if:

Suspension or revocation of authorisation.

Amended by:

L.N. 145 of 2009.

Substituted by:

L.N. 393 of 2015.

- (a) the person, in applying for the authorisation, has given any false or incorrect information which was material to the application referred to in regulation 4 or has obtained otherwise the authorisation by fraud or misrepresentation;
- (b) the person has failed to fulfil or comply with the requirements prescribed by these regulations or as determined by Insurance Rules or any of the terms, conditions or limitations attached to the authorisation;
- (c) the person has shown incompetence in the conduct of his responsibilities under the authorisation or has in any manner acted fraudulently, or dishonestly or otherwise in such manner as to cease to be trustworthy;
- (d) the warrant to act as auditor issued to the person under the Accountancy Profession Act is suspended or revoked under that Act, or the registration of an audit firm under that Act is suspended or cancelled thereunder;
- (e) at any time, in the case of an audit firm, no longer has any two partners/directors, or any one partner/director and one employee, who hold an authorisation to act as approved auditor;
- (f) the person who holds an appointment to audit insurance undertakings accounts is no longer covered by an indemnity insurance contract for the amount specified in Insurance Rules; and
- (g) the person is disciplined or convicted under any provision of these regulations.

Cap. 281.

(2) The name of an individual person or audit firm whose authorisation is revoked under these regulations shall be struck off the approved auditors register or the approved auditors list, as the case may be, and a name struck off the register or the list shall be restored thereto only where the revocation is declared void and of no effect by order of the Financial Services Tribunal on an appeal made to it by the aggrieved person under article 58 of the Act.

(3) Without prejudice to anything contained in any other provision of the Act, the competent authority may at any time suspend or revoke an authorisation issued or held under these regulations and strike off the name of the approved auditor from the approved auditors register or the approved auditors list, as the case may be, if such approved auditor fails to pay the annual supervisory fee, when due, to continue to act as an approved auditor.

(4) The competent authority may, after the expiration of one year from the date of revocation of an authorisation, issue a fresh

authorisation under the provisions of these regulations.

Manner leading to suspension or revocation of an authorisation.

Added by:
L.N. 393 of 2015.

6A. (1) Without prejudice to any other action which the competent authority may consider appropriate under any provision of the Act or these regulations, where, in the circumstances specified in regulation 6, the competent authority intends to suspend or revoke an authorisation issued or held under these regulations, it shall give the person concerned notice in writing specifying the reasons for its intention to do so.

(2) Every notice given under sub-regulation (1) shall state that the person concerned may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight hours and not longer than thirty days), make representations in writing to the competent authority giving reasons why the authorisation should not be suspended or revoked and the competent authority shall consider any representations so made before arriving at a final decision.

(3) The competent authority shall notify in writing its final decision to the person concerned and, where the authorisation is revoked, the notification shall also state that the name of the person concerned has been struck off the approved auditors register or the approved auditors list, as the case may be.

Arrangements governing the audit of insurance companies accounts.

Amended by:
L.N. 426 of 2007;
L.N. 145 of 2009;
L.N. 393 of 2015.

7. (1) The competent authority shall by Insurance Rules determine the arrangements governing the audit of insurance undertakings accounts and different arrangements may be determined with respect to the audit of different insurance undertakings accounts.

(2) Any person who acts as approved auditor and holds an appointment to audit insurance undertakings accounts who fails to satisfy any arrangement as determined by the directive for the purposes of this regulation shall, without prejudice to any action which the competent authority may take against that person under regulation 6, be guilty of an infringement against this regulation and shall be liable for each infringement to an administrative penalty of not less than one hundred and sixteen euro and forty-seven cents (€116.47) and not exceeding two hundred and thirty-two euro and ninety-four cents (€232.94).

Savings.
Amended by:
L.N. 145 of 2009;
L.N. 393 of 2015.

8. For the purposes of these regulations, a person shall not be deemed to act as approved auditor if he acts simply as an employee of, or assistant to, a person or audit firm who acts as approved auditor and does not issue any accounting or financial statements over his name.
