Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 16,836, 7 ta' Settembru, 1999
Taqsima B

L.N. 158 of 1999

INSURANCE BUSINESS ACT, 1998
(ACT NO. XVII OF 1998)

Insurance Business (Criteria of Sound and Prudent Management) Regulations, 1999

IN exercise of the powers conferred by section 64 of the Insurance Business Act, 1998, the Minister of Finance, after consultation with the Malta Financial Services Centre, has made the following regulations:–

Citation.

1. These regulations may be cited as the Insurance Business (Criteria of Sound and Prudent Management) Regulations, 1999.

Interpretation.

2. In these regulations, unless the context otherwise requires –

"the Act" means the Insurance Business Act, 1998;

"Centre" means the Malta Financial Services Centre established by section 3 of the Malta Financial Services Centre Act and appointed under section 3 of the Act to be the Competent Authority for the purposes of the Act; Cap. 330.

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

Sound and prudent management criteria.

3. (1) The Centre shall not issue an authorisation under the Act to any applicant to carry on the business of insurance or to act as an insurance agent or insurance manager, nor shall the Centre permit any such applicant to hold an authorisation issued thereunder if it appears to it that the criteria of sound and prudent management are not or will not be fulfilled with respect to the applicant.

(2) In these regulations "criteria of sound and prudent management" means the criteria set out in the Schedule to these regulations.

SCHEDULE

(Regulation 3)

CRITERIA OF SOUND AND PRUDENT MANAGEMENT

Integrity and skill

1. (1) The business of the company is carried on with integrity, due care and the professional skills appropriate to the nature and scale of its activities.

(2) Each director, controller or manager of the company is a fit and proper person to hold that position.

(3) In the case of –

(a) a company whose head office is in a country outside Malta:

(i) the representative referred to in indent (i) of sub-paragraph (d) of paragraph 1 of section 11 of the Act; or

(ii) where that representative is not an individual, the individual representative referred to in paragraph (d) of section 12 of the Act; and

(b) a Recognised Insurance Body known as Lloyd's:

(i) the representative referred to in paragraph 4.1 of the First Schedule to the Act; or

(ii) where the representative is not an individual, the individual representative referred to in paragraph (d) of section 12 of the Act,

is in each case, a fit and proper person to hold that position.

Direction and management of the company

2. The company is directed and managed by a sufficient number of persons who are fit and proper persons to hold the positions which they hold.

Business to be conducted in a sound and prudent manner

3. (1) The company conducts its business in a sound and prudent manner.

(2) The company shall not be regarded as conducting its business in a sound and prudent manner unless it maintains –

(a) adequate accounting and other records of its business; and

(b) adequate systems of control of its business and records.

(3) Accounting and other records and systems of control shall not be regarded as adequate unless they are such as –

(a) to enable the business of the company to be prudently managed; and

(b) to enable the company to comply with the obligations imposed on it by or under the Act and, in the case of a company whose head office is in Malta carrying on business of insurance in or from a country outside Malta, enactments in such country which apply to its business of insurance.

(4) In determining whether any systems of control are adequate the Centre shall have regard to the functions and responsibilities for those systems which are held by the persons who are responsible for the direction and management of the company and to whom sub-paragraph (3) of this paragraph applies.

(5) The company shall not be regarded as conducting its business in a sound and prudent manner if –

(a) it fails to conduct its business with due regard to the interests of policyholders and potential policyholders;

(b) it fails to satisfy an obligation to which it is subject by virtue of the Act;

(c) in the case of a company whose head office is in Malta carrying on business of insurance in or from a country outside Malta, it fails to satisfy an obligation to which it is subject by virtue of any provision of the law of that country which applies to its business of insurance in that country; and

(d) it fails to supervise the activities of a subsidiary undertaking:

(i) with due care and diligence; and

(ii) without detriment to the company's business;

(e) it fails to supervise the activities of any of its insurance sub-agents.

(6) For the purposes of this Schedule "undertaking" has the same meaning as is assigned to it by section 2 of the Companies Act, 1995 (Act XXV of 1995).