L.N. 99 of 2000

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

Insurance Business (Continuance of Companies Carrying on Business of Affiliated Insurance) Regulations, 2000

IN exercise of the powers conferred by sections 62 and 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. The title of these regulations is the Insurance Business (Continuance of Companies Carrying on Business of Affiliated Insurance) Regulations, 2000.

Interpretation.

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

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

"company" means a company formed and registered under Part V of the Companies Act, 1995; Act No. XXV of 1995.

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

Continuance of companies carrying on business of affiliated insurance.

3. (1) Subject to the following provisions of this regulation –

(a) a body corporate, formed and incorporated or registered in a country outside Malta, which is similar in nature to a company and which would, if it were such a company, qualify to be authorised under the Act to carry on business of affiliated insurance, may be continued as a company formed and registered under the Companies Act, 1995 and authorised under the Act to carry on business of affiliated insurance; and

(b) a company authorised under the Act to carry on business of affiliated insurance may be continued as a body corporate incorporated or registered under the laws of a country outside Malta,

in either case by complying with the following provisions of this regulation; and the Companies Act, 1995 shall, in respect of such bodies corporate or companies carrying on business of affiliated insurance (hereinafter, in this regulation, referred to as "affiliated insurance companies"), have effect accordingly.

(2) Continuance as aforesaid may only take place if it is within the power of such body or affiliated insurance company so to continue and the continuance is approved –

(a) in the case of a body formed and incorporated or registered in a country outside Malta desiring to continue as an affiliated insurance company under the Act, in such manner, by such constituted body and with such majority as would be equivalent, under the laws of the country of its incorporation or registration and according to the instrument whereby it is constituted, of an extraordinary resolution under the laws of Malta; and

(b) in the case of an affiliated insurance company desiring to continue under a foreign jurisdiction, by an extraordinary resolution of the company.

(3) Where continuance as aforesaid entitles or requires the body corporate or affiliated insurance company, as the case may be, to redeem the interest of dissenting persons whose approval is required, such interest may be redeemed on such terms as may be agreed or as the courts in Malta may, on demand of either party, establish.

(4) The continuance of a body corporate formed and incorporated or registered in a country outside Malta as an affiliated insurance company in Malta shall be effected by an instrument of continuance containing, in addition to the declarations relating to the continuance, the equivalent of a memorandum and articles of a company as is required by the Companies Act, 1995 in order that a company may be authorised under the Act as an affiliated insurance company, and showing on the face of it that the continuance has been approved as provided in paragraph (2) of this regulation.

(5) The delivery of the instrument of continuance to the Registrar of Companies shall, for all purposes of the Companies Act, 1995, be equivalent to the delivery of the memorandum and articles of a company as if it were a company to be formed and registered under that Act; and the Registrar of Companies shall treat it accordingly.

(6) Upon its registration as provided in paragraph (5) of this regulation, and its authorisation under the Act, the body corporate shall cease to be a body corporate under its previous jurisdiction and shall continue its corporate existence, and retain all its assets, rights and liabilities as a company otherwise formed and registered under the Companies Act, 1995 and authorised under the Act.

(7) The continuance of an affiliated insurance company as a body corporate under a foreign jurisdiction shall not take place unless –

(a) such continuance (or similar process, including conversion) is permitted by the law of such foreign jurisdiction and in accordance with such provisions thereof as may bring about such continuance (or similar process); and

(b) such continuance (or similar process) will operate the continuation of the corporate existence of the affiliated insurance company as, or its conversion into, a body corporate which will continue to retain or will succeed to all the assets, rights and liabilities of the affiliated insurance company.

(8) Notwithstanding the foregoing provisions of this regulation, an affiliated insurance company shall not cease to be a company subject to Maltese jurisdiction until the Registrar of Companies has received notice in writing of the continuance (or other process) made as aforesaid and unless and until, being satisfied that the requirements of this regulation have been complied with, he has registered such continuance and has, in consequence thereof and by virtue of this regulation, struck the name of the company off the register.