L.N. 334 of 2003

INSURANCE BUSINESS ACT, 1998
(CAP. 403)

Insurance Business (Companies Carrying on Business of Affiliated Insurance) Regulations, 2003

IN exercise of the powers conferred by article 64 of the Insurance Business Act, the Minister of Finance and Economic Affairs, after consultation with the Malta Financial Services Authority, has made the following regulations:

Citation.

1. (1) These regulations may be cited as the Insurance Business (Companies Carrying on Business of Affiliated Insurance) Regulations, 2003.

(2) These regulations shall be deemed to have come into force on the 3rd November, 2003.

Interpretation.

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

"the Act" means the Insurance Business Act;

"affiliated insurance company" means a company carrying on business of affiliated insurance;

"the Authority" means the competent authority appointed under article 3 of the Act;

"business of affiliated insurance", means the business of an insurance company which is registered in Malta and whose business of insurance is restricted to risks originating with shareholders or connected undertakings or entities;

"the Directive" means an Insurance Directive made by theCompetent Authority by virtue of article 4 of the Act for the purposes of carrying into effect certain provisions of these regulations,

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

Shareholdings or other connected relationships between undertakings.

3. The Authority shall, by a Directive, determine the shareholding or other connected relationships between undertakings whose risks can be insured by the affiliated insurance company.

Application of the Act to companies carrying on business of affiliated insurance.

4. (1) The Act and any rules, regulations and Directives made thereunder shall apply to a company carrying on business of affiliated insurance, in the same manner and to the same extent, as they apply to a company whose head office is in Malta authorised under the Act, subject to the following provisions of this regulation.

(2) Subarticle (7) of article 7 of the Act shall apply as if for the period of six months prescribed therein there was substituted the period of three months.

(3) Paragraph (b) of subarticle (1) of article 10 of the Act shall apply only to the extent that where the authorisation sought or held is by an affiliated insurance company, it is required to submit proof that it maintains the minimum guarantee fund in accordance with article 16 of the Act.

(4) Subarticle (2) of article 10 of the Act shall apply only to the extent that an affiliated insurance company may, with the approval of the Authority given in writing, appoint an insurance manager.

(5) Paragraphs (b) and (c) of subarticle (1) of article 20 thereof shall not apply but an affiliated insurance company shall be required to provide a copy of its audited financial statements to any person applying for such copy and the company may charge such reasonable fees, for such copy.

(6) Where a transfer of business of insurance is not one where both the transferor and the transferee are companies carrying on business of affiliated insurance, the provisions of Part VIII of the Act shall apply subject to the following provisions of this sub-regulation:

(a) subarticle (2) of article 33 of the Act shall apply as follows:-

(i) paragraph (a) thereof shall not apply;

(ii) paragraph (b) thereof shall apply to the extent only of requiring that a notice approved for this purpose by the Authority be sent by the transferor to every policyholder affected by the scheme and every other person who claims an interest in a policy included in the proposed transfer and has given notice of his claim to the transferor; and

(iii) paragraph (c) thereof shall apply to the extent only of requiring that copies of a statement setting out particulars of the transfer and approved for this purpose by the Authority are available for inspection at the offices of the transferor and if the company has appointed an insurance manager, the offices of the said manager;

(b) subarticle (4) of article 33 of the Act shall apply as follows:

(i) paragraph (a) thereof shall apply to the extent only of requiring that the transferee is, or immediately after the approval will be, authorised under the laws of the country where the head office is situated to carry on general business of the class or classes or part classes to be transferred under the scheme;

(ii) paragraph (b) thereof shall apply to the extent only of requiring that the overseas regulatory authority where the head office of the transferee company is situated has certified that, after taking the proposed transfer into account, the transferee possesses the margin or margins of solvency required to be maintained under the laws of the country of its head office; and

(iii) paragraph (c) thereof shall apply to the extent only of requiring that the transferee company produces evidence that its financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by or under the applicable laws of the country where the head office is situated;

(c) subarticle (3) of article 35 of the Act shall apply as follows:

(i) paragraph (a) thereof shall not apply; and

(ii) indent (i) of paragraph (d) thereof shall apply to the extent only of requiring that copies of the application and of the report mentioned in paragraph (a) of subarticle (2) of article 35 thereof have been open to inspection at the offices of the transferor and transferee companies and if either one of the said companies has appointed an insurance manager, the offices of the said manager; and

(d) subarticle (5) of article 35 of the Act shall apply as follows:

(i) paragraph (a) thereof shall apply to the extent only of requiring that the transferee is, or immediately after the approval will be, authorised under the laws of the country where its head office is situated to carry on long term business of the class or classes to be transferred under the scheme; and

(ii) paragraph (b) thereof shall apply to the extent of requiring that the overseas regulatory authority where the head office of the transferee is situated certifies that the transferee, after taking the transfer into account, possesses the margin or margins of solvency required to be maintained under the laws of the country of its head office and that the transferee's financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it, by or under the applicable laws of the country of its head office.

(7) Sub-paragraph (i) of paragraph (a) of subarticle (2) of article 39 of the Act shall not apply.

(8) Articles 44 and 47 of the Act shall not apply.

(9) Subarticle (2) of article 48 of the Act shall not apply.

(10) Part XI of the Act shall not apply to an affiliated insurance company.

Transitional provision.

5. Every company which, immediately before the coming into force of these regulations, was authorised to carry on business of affiliated insurance under article 7 of the Act, shall, from the date of the coming into force of these regulations be subject to the provisions of these regulations.

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