L.N. 105 of 2000

INSURANCE BUSINESS ACT
(CAP. 403)

Insurance Business (Approved Auditor) Regulations, 2000

IN exercise of the powers conferred by sections 21, 64 and 67 of the Insurance Business Act, the Minister of Finance, after consultation with the Malta Financial Services Centre, has made the following regulations:—

Citation and commencement.

1. (1) The title of these regulations is the Insurance Business (Approved Auditor) Regulations, 2000.

(2) These regulations shall come into force on the 1st January, 2001.

Interpretation.

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

"the Act" means the Insurance Business Act;

"Approved Auditors List" means the list of partnerships of auditors acting as approved auditor established and maintained under regulation 3 of these regulations;

"Approved Auditors Register" means the approved auditors register established and maintained under regulation 3 of these regulations;

"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.

"the Directive" means an Insurance Directive made by the Centre by virtue of section 4 of the Act for the purpose of carrying into effect certain provisions of section 21 of the Act and of these regulations;

"partnership of auditors" and "partnership" shall be construed in accordance with section 10 of the Accountancy Profession Act, Cap. 281.

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 company" shall be deemed to be a reference to a company authorised under section 7 of the Act to carry on business of insurance in or from Malta, or in or from a country outside Malta, a company authorised under section 13 of the Act to act as an insurance agent or insurance manager, and a company enrolled in the Brokers List under section 13 of the Insurance Brokers and Other Intermediaries Act, 1998.

Act XVIII of 1998.

The Approved Auditors Register and the Approved Auditors List.

3. The Centre 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 partnerships of auditors authorised to act as approved auditor, in these regulations referred to as "the Approved Auditors List",

in every case, containing the names, principal places of business and such other particulars as the Centre may, from time to time, by the Directive determine, of all persons and partnerships 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 the Directive.

Application for authorisation to act as approved auditor. Act No. XXV of 1995.

4. (1) No person who is qualified to be an auditor in accordance with the Companies Act, 1995 shall accept an appointment to audit insurance companies accounts unless that person holds an authorisation to act as approved auditor issued by the Centre 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 the Directive and any partnership of auditors duly registered under the said Act which satisfies the requirements determined for such purpose by the Directive may make application in writing to the Centre in the form and manner determined for such purpose by the Directive 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 paragraph (1) of this regulation 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 five hundred Maltese liri and in respect of a second or subsequent offence to a fine (*multa*) not exceeding one thousand Maltese liri or to imprisonment for a period not exceeding

six months, or to both such fine and imprisonment, and, in the case of a continuing offence, to an additional fine (*multa*) not exceeding fifty Maltese liri for each day during which the offence continues.

Grant of authorisation.

5. (1) The Centre 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 Centre 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 Centre 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 who is a partnership of auditors, 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 Centre under paragraph (2) of this regulation, shall be guilty of an offence and shall be liable on conviction for each offence to a fine (*multa*) not exceeding five hundred Maltese liri or to imprisonment not exceeding six months or to both such fine and imprisonment.

Suspension or revocation of authorisation.

6. (1) The Centre may, at any time, in the circumstances and in accordance with the procedures determined for such purposes by the Directive, suspend or revoke an authorisation issued or held under these regulations; and the name of an individual person or partnership of auditors whose authorisation is revoked under this regulation 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 section 58 of the Act.

(2) The Centre 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.

The Register and the List available for inspection and purchase.

7. (1) The Approved Auditors Register and the Approved Auditors List shall be open to public inspection, free of charge, at the Centre at all times during the normal working hours of the Centre.

(2) Copies of the Approved Auditors Register and the Approved Auditors List and extracts therefrom shall be made available for purchase from the Centre upon payment of the fee for the purchase of such publications and extracts specified in the Schedule to these regulations.

(3) For the purposes of this regulation and the Schedule, "extract", in relation to the Approved Auditors Register and the Approved Auditors List, means a facsimile of the name and all the other particulars entered in the Register or the List relating to any one particular person, whether that person is an individual or partnership, registered or enrolled therein.

Arrangements governing the audit of insurance companies accounts.

8. (1) The Centre shall by the Directive determine the arrangements governing the audit of insurance companies accounts and different arrangements may be determined with respect to the audit of different insurance companies accounts.

(2) Any person who acts as approved auditor and holds an appointment to audit insurance companies 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 Centre may take against that person under regulation 6 of these regulations, be guilty of an infringement against this regulation and shall be liable for each infringement to an administrative penalty of not less than Lm50 and not exceeding Lm100.

Savings.

Cap. 290.

9. (1) Every person who, immediately before the date of coming into force of these regulations, held an authorisation to act as approved auditor issued under section 17 of the Insurance Business Act, 1981, repealed by the Act, shall, not later than the appointed date, conform with the provisions of these regulations or otherwise cease to act as approved auditor and, shall, until the appointed date or until he conforms with the provisions of these regulations, whichever is earlier, continue to act as approved auditor in virtue of that authorisation. For the purpose of this regulation "appointed date" means a day being 90 days after the date of coming into force of these regulations.

(2) Where a person ceases to act as approved auditor on grounds that such person did not, on the appointed date, conform with the provisions of these regulations, such person shall continue to be answerable to the Centre with respect to the audit of any insurance company accounts carried out by him until the appointed date as if he were still authorised under these regulations to act as approved auditor.

(3) 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 partnership of auditors who acts as approved auditor and does not issue any accounting or financial statements over his name.

SCHEDULE

(Regulation 7)

Fees of official publications

The Approved Auditors Register or the Approved Auditors List – 25c per page contained in the respective publication but not less than Lm1 per publication.

Extract from the Approved Auditors Register or theApproved Auditors List – Lm 1 per extract.