L.N. 41 of 2007

INSURANCE BUSINESS ACT (CAP. 403)

Insurance Business (Criteria of Sound and Prudent Management) (Amendment) Regulations, 2007

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

Citation.

1. (1) The title of these regulations is the Insurance Business (Criteria of Sound and Prudent Management) (Amendment) Regulations, 2007, and shall be read and construed as one with the Insurance Business (Criteria of Sound and Prudent Management) Regulations, 1999, hereinafter referred to as "the principal regulations". L.N. 158 of 1999.

(2) These regulations shall come into force on the 15th March, 2007.

Amends regulation 3 of the principal regulations.

2. For subregulation (1) of regulation 3 of the principal regulations there shall be substituted the following:–

"(1) The Authority shall not issue an authorisation under the Act to any applicant to carry on the business of insurance, nor shall the Authority permit 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.".

Amends the Schedule to the principal regulations.

3. The Schedule to the principal regulations shall be amended as follows:

(a) for paragraph 1 thereof, there shall be substituted the following:

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

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

(3) In the case of a company whose head office is in a country outside Malta:

(a) the representative referred to in article 11(1)(d)(i) of the Act; or

(b) where the representative is not an individual, the individual representative referred to in article 12(1)(d) of the Act,

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

(b) paragraph 3 thereof, shall be amended as follows:

(i) in indent (a) of subparagraph (2) thereof, for the words "and other records of its business" there shall be substituted the words "and orderly records of its business and internal organisation";

(ii) in subparagraph (3) thereof, for the words "regarded as adequate" there shall be substituted the words "regarded as adequate and orderly";

(iii) for subparagraph (5) thereof, there shall be substituted the following:

"(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;

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

(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 tied insurance intermediaries;

(f) it fails to set controls and monitor on an ongoing basis all outsourced services; and

(g) it fails to operate compliance arrangements that are robust and reliable, including safeguards against participating in or being used by others as a vehicle for financial crimes."; and

(c) for subparagraph (6) thereof, there shall be substituted the following:

"(6) For the purpose of this Schedule "subsidiary undertaking" shall be construed in accordance with article 2 of the Companies Act, 1995.".

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