VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,405, 8 ta' April, 2015
Taqsima B

L.N. 120 of 2015

INSURANCE BUSINESS ACT (CAP. 403)

Insurance Business (Phasing-in) Regulations, 2015

IN exercise of the powers conferred by article 64(7) of the Insurance Business Act, the Minister of Finance, after consultation with the Malta Financial Services Authority, has made the following regulations:-

Citation, scope and commencement.

1. (1) The title of these regulations is the Insurance Business (Phasing-in) Regulations, 2015.

(2) The purpose of these regulations is to implement Article 308a of the Solvency II Directive and they shall be interpreted and applied accordingly.

(3) These regulations shall be deemed to have come into force on the 1st April 2015, other than regulation 4 which shall come into force on the 1st July 2015.

Interpretation.

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

"the Act" means the Insurance Business Act; Cap. 403.

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"the Solvency II Directive" means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), as amended from time to time, and includes Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) ("Omnibus II"), any delegated acts and any technical standards that have been or may be issued thereunder;

and the words and expressions which are used in these regulations have the same meanings as in the Solvency II Directive.

Phasing-in: First Stage.

3. As from 1st April 2015, for the purposes of the phasing-in under the Solvency II Directive:

(a) the competent authority shall have the power to

decide on the approval of:

(i) ancillary own funds in accordance with Article 90 of the Solvency II Directive;

(ii) the classification of own funds items referred to in the third paragraph of Article 95 of the Solvency II Directive;

(iii) undertaking specific parameters in accordance with Article 104(7) of the Solvency II Directive;

(iv) a full or partial internal model in accordance with Articles 112 and 113 of the Solvency II Directive;

(v) ancillary own funds of an intermediate insurance holding company in accordance with Article 226(2) of the Solvency II Directive;

(vi) a group internal model in accordance with Articles 230, 231 and 233(5) of the Solvency II Directive;

(vii) the use of the duration based equity-risk sub-module in accordance with Article 304 of the Solvency II Directive;

(viii) the use of the matching adjustment to the relevant risk-free interest rate term structure in accordance with Articles 77b and 77c of the Solvency II Directive;

(ix) the use of the transitional measure on the risk-free interest rates in accordance with Article 308c of the Solvency II Directive;

(x) the use of the transitional measure on technical provisions in accordance with Article 308d of the Solvency II Directive;

(b) the competent authority shall have the power to:

(i) determine the level and scope of group supervision in accordance with Title III, Chapter I, Sections 2 and 3 of the Solvency II Directive;

(ii) identify the group supervisor in accordance with Article 247 of the Solvency II Directive; and

(iii) establish a college of supervisors in

accordance with Article 248 of the Solvency II Directive.

Phasing-in: Second Stage.

4. As from 1st July 2015, for the purposes of the phasing-in under the Solvency II Directive, the competent authority shall have the power to:

(a) decide to deduct any participation in accordance with the second sub-paragraph of Article 228 of the Solvency II Directive;

(b) determine the choice of method to calculate group solvency in accordance with Article 220 of the Solvency II Directive;

(c) make the determination on equivalence, where appropriate, in accordance with Articles 227 and 260 of the Solvency II Directive;

(d) permit authorised insurance and reinsurance undertakings to be subject to Articles 238 and 239, in accordance with Article 236 of the Solvency II Directive;

(e) make the determinations referred to in Articles 262 and 263 of the Solvency II Directive; and

(f) determine, where appropriate, the application of transitional measures in accordance with Article 308b of the Solvency II Directive.

Applicability of approvals or permissions.

5. The decisions taken by the competent authority on applications submitted by authorised insurance or reinsurance undertakings for approval or permission in accordance with regulations 3 and 4 shall not become applicable before 1st January 2016.

Power of the competent authority to issue Insurance Rules.

6. (1) For the better carrying out of the provisions of these regulations, the competent authority may issue Insurance Rules for the purpose of implementing the guidelines issued by the European Insurance and Occupational Pensions Authority under Article 16 of Regulation (EU) No. 1094/2010 of the European Parliament and of the Council of the 24 November 2010 establishing a European Supervisory Authority amending Decision No. 716/2009/EC and repealing Commission Decision 2009/79/EC, for the phasing-in of the Solvency II Directive.

(2) Such Insurance Rules may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purposes of these regulations.

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