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**L.N. 393 of 2015**

# INSURANCE BUSINESS ACT
# (CAP. 403)

## Insurance Business (Approved Auditor) (Amendment) Regulations, 2015

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

Citation and commencement.

**1.** (1) The title of these regulations is the Insurance Business (Approved Auditor) (Amendment) Regulations, 2015, and these regulations shall be read and construed as one with the Insurance Business (Approved Auditor) Regulations, hereinafter referred to as "the principal regulations".

S.L. 403.09

(2) These regulations shall come into force on the 1st January 2016.

Amends regulation 2 of the principal regulations.

**2.** Regulation 2 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof:

(i) in the definition "approved auditors list", for the words "partnerships of auditors", there shall be substituted the words "audit firms";

(ii) immediately after the definition "approved auditors register", there shall be added the following new definition:

" "audit firm" shall have the same meaning as is assigned to it by article 2 of the Accountancy Profession Act;";

Cap. 281.

(iii) the definition "Authority" shall be deleted;

(iv) immediately after the new definition "audit

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firm", there shall be added the following new definition:

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

Cap. 330.

(v) in the definition "insurance rule", for the words " "insurance rule" ", there shall be substituted the words " "Insurance Rules" ",

and for the words "an insurance rule", wherever they appear in the principal regulations, there shall be substituted the words "Insurance Rules";

(vi) the definition " "partnership of auditors" and "partnership" " shall be deleted; and

(b) in sub-regulation (2) thereof, for the words "any reference to an "insurance company" shall be deemed to be a reference to a company authorised under article 7 of the Act to carry on business of insurance", there shall be substituted the words "any reference to an "insurance undertaking" shall be deemed to be a reference to an authorised insurance undertaking or authorised reinsurance undertaking which has received authorisation pursuant to article 7 of the Act to carry on business of insurance".

Amends regulation 3 of the principal regulations.

**3.** Regulation 3 of the principal regulations shall be amended as follows:

(a) for the word "Authority", and wherever it appears throughout the principal regulations, there shall be substituted the words "competent authority";

(b) in paragraph (b) thereof, for the words "a list of partnerships of auditors", there shall be substituted the words "a list of audit firms"; and

(c) in the paragraph immediately following paragraph (b) thereof, for the words "of all persons and partnerships who are entitled under these regulations", there shall be substituted the words "of all persons and audit firms who are entitled under these regulations".

Amends regulation 4 of the principal regulations.

**4.** Regulation 4 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "to audit

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insurance companies accounts", there shall be substituted the words "to audit insurance undertakings accounts";

(b) in sub-regulation (2) thereof, for the words "any partnership of auditors duly registered under the said Act", there shall be substituted the words "any audit firms duly registered under the said Act"; and

(c) for sub-regulation (3) thereof, there shall be substituted the following:

"(3) Any person who acts in contravention of the provisions of sub-regulation (1) 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 one thousand and two hundred euro (€1,200) and in respect of a second or subsequent offence to a fine (*multa*) not exceeding six thousand euro (€6,000), and in the case of a continuing offence, to an additional fine (*multa*) not exceeding one hundred and twenty euro (€120) for each day during which the offence continues.".

Amends regulation 5 of the principal regulations.

**5.** In paragraph (b) of sub-regulation (3) of regulation 5 of the principal regulations, for the words "in the case of an applicant who is a partnership of auditors,", there shall be substituted the words "in the case of an applicant which is an audit firm,".

Substitutes regulation 6 of the principal regulations.

**6.** Regulation 6 of the principal regulations shall be substituted by the following:

"Suspension or revocation of authorisation.

6. (1) The competent authority may, at any time, suspend or revoke an authorisation issued or held under these regulations if:

(a) the person, in applying for the authorisation, has given any false or incorrect information which was material to the application referred to in regulation 4 or has obtained otherwise the authorisation by fraud or misrepresentation;

(b) the person has failed to fulfil or comply with the requirements prescribed by these regulations or as determined by Insurance Rules or any of the terms, conditions or limitations attached to the authorisation;

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(c) the person has shown incompetence in the conduct of his responsibilities under the authorisation or has in any manner acted fraudulently, or dishonestly or otherwise in such manner as to cease to be trustworthy;

(d) the warrant to act as auditor issued to the person under the Accountancy Profession Act is suspended or revoked under that Act, or the registration of an audit firm under that Act is suspended or cancelled thereunder;

Cap. 281.

(e) at any time, in the case of an audit firm, no longer has any two partners/directors, or any one partner/ director and one employee, who hold an authorisation to act as approved auditor;

(f) the person who holds an appointment to audit insurance undertakings accounts is no longer covered by an indemnity insurance contract for the amount specified in Insurance Rules; and

(g) the person is disciplined or convicted under any provision of these regulations.

(2) The name of an individual person or audit firm whose authorisation is revoked under these regulations 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 article 58 of the Act.

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(3) Without prejudice to anything contained in any other provision of the Act, the competent authority may at any time suspend or revoke an authorisation issued or held under these regulations and strike off the name of the approved auditor from the approved auditors register or the approved auditors list, as the case may be, if such approved auditor fails to pay the annual supervisory fee, when due, to continue to act as an approved auditor.

(4) The competent authority 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.".

Adds a new regulation to the principal regulations.

**7.** Immediately after regulation 6 there shall be added the following new regulation:

"Manner leading to suspension or revocation of an authorisation.

6A. (1) Without prejudice to any other action which the competent authority may consider appropriate under any provision of the Act or these regulations, where, in the circumstances specified in regulation 6, the competent authority intends to suspend or revoke an authorisation issued or held under these regulations, it shall give the person concerned notice in writing specifying the reasons for its intention to do so.

(2) Every notice given under sub-regulation (1) shall state that the person concerned may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight hours and not longer than thirty days), make representations in writing to the competent authority giving reasons why the authorisation should not be suspended or revoked and the competent authority shall consider any representations so made before arriving at a final decision.

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(3) The competent authority shall notify in writing its final decision to the person concerned and, where the authorisation is revoked, the notification shall also state that the name of the person concerned has been struck off the approved auditors register or the approved auditors list, as the case may be.".

Amends regulation 7 of the principal regulations.

**8.** Regulation 7 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following:

"(1) The competent authority shall by Insurance Rules determine the arrangements governing the audit of insurance undertakings accounts and different arrangements may be determined with respect to the audit of different insurance undertakings accounts."; and

(b) in sub-regulation (2) thereof, for the words "holds an appointment to audit insurance companies accounts", there shall be substituted the words "holds an appointment to audit insurance undertakings accounts".

Amends regulation 8 of the principal regulations.

**9.** In regulation 8 of the principal regulations, for the words "a person or partnership of auditors who acts as approved auditor", there shall be substituted the words "a person or audit firm who acts as approved auditor".

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