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Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,509, 10 ta' Diċembru, 2015
Taqsima B

L.N. 395 of 2015

INSURANCE BUSINESS ACT (CAP. 403)

Insurance Business (Companies Carrying on Business of Affiliated Insurance) (Amendment) Regulations, 2015

IN exercise of the powers conferred by article 64(6) 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 (Companies Carrying on Business of Affiliated Insurance) (Amendment) Regulations, 2015, and these regulations shall be read and construed as one with the Insurance Business (Companies Carrying on Business of Affiliated Insurance) Regulations, hereinafter referred to as "the principal regulations".

S.L. 403.11

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

Amends the title of the principal regulations.

2. For the title of the principal regulations there shall be substituted the following: "INSURANCE BUSINESS (CAPTIVE INSURANCE UNDERTAKINGS AND CAPTIVE REINSURANCE UNDERTAKINGS) REGULATIONS".

Amends regulation 1 of the principal regulations.

3. In regulation 1 of the principal regulations, for the words "the Insurance Business (Companies Carrying on Business of Affiliated Insurance) Regulations", there shall be substituted the words "the Insurance Business (Captive Insurance Undertakings and Captive Reinsurance Undertakings) Regulations".

Amends regulation 2 of the principal regulations.

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

(a) for the definition "affiliated insurance company" there shall be substituted the following:

" "captive insurance undertaking" means an authorised insurance undertaking, owned either by a financial undertaking, other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings within the meaning of article 2 of the Act, or by a non-financial undertaking, the purpose of

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which is to provide insurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;";

(b) for the definition "affiliated reinsurance company" there shall be substituted the following:

" "captive reinsurance undertaking" means an authorised reinsurance undertaking, owned either by a financial undertaking, other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings within the meaning of article 2 of the Act, or by a non-financial undertaking, the purpose of which is to provide reinsurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;";

(c) for the definition "the Authority" there shall be substituted the following:

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

(d) the definition "business of affiliated insurance" shall be deleted;

(e) immediately after the definition "the competent authority", there shall be added the following new definition:

" "financial undertaking" means any of the following entities:

(a) a credit institution, a financial institution or an ancillary banking services undertaking within the meaning of sub-paragraphs (1), (17) and (22) of paragraph (1) of Article 3 of Directive 2013/36/EU respectively;

(b) an insurance undertaking, or a reinsurance undertaking or an insurance holding company within the meaning of Article 212(1)(f) of the Solvency II Directive;

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(c) an investment firm or a financial institution within the meaning of Article 4(1)(1) of Directive 2004/39/EC; or

(d) a mixed financial holding company within the meaning of Article 2(15) of Directive 2002/87/EC;";

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

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

Substitutes regulation 3 of the principal regulations.

5. For regulation 3 of the principal regulations, there shall be substituted the following:

"Power of the competent authority to issue Insurance Rules.

3. For the better carrying out of the provisions of these regulations, the competent authority may issue Insurance Rules which may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purposes of these regulations.".

Amends regulation 4 of the principal regulations.

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

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) The Act and any regulations and Insurance Rules made thereunder shall apply to a captive insurance undertaking and a captive reinsurance undertaking, in the same manner and to the same extent, unless specified otherwise, as they apply to an authorised insurance undertaking or an authorised reinsurance undertaking whose head office is in Malta, subject to the following provisions of this regulation.";

(b) in sub-regulation (2) thereof, for the words "Article 7(7) of the Act", there shall be substituted the words "Article 7(9) of the Act";

(c) in sub-regulation (3) thereof, for the words "an affiliated insurance company or an affiliated reinsurance

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company may, with the approval of the Authority", there shall be substituted the words "a captive insurance undertaking or a captive reinsurance undertaking may, with the approval of the competent authority";

(d) for sub-regulation (4) thereof, there shall be substituted the following:

"(4) Article 20(1)(b) of the Act shall not apply.";

(e) in sub-regulation (5) thereof:

(i) for the words "Subject to article 37 of the Act, where it is proposed", there shall be substituted the words "Where it is proposed";

(ii) for the words "companies carrying on business of affiliated insurance", there shall be substituted the words "captive insurance undertakings or captive reinsurance undertakings";

(iii) paragraph (a) thereof shall be amended as follows:

(aa) in sub-paragraph (ii) thereof, for the words "for this purpose by the Authority", there shall be substituted the words "for this purpose by the competent authority";

(bb) for sub-paragraph (iii) thereof, there shall be substituted the following:

"(iii) paragraph (c) thereof shall not apply;";

(iv) for sub-paragraph (ii) of paragraph (b) thereof, there shall be substituted the following:

"(ii) paragraph (d)(i) thereof shall not apply, unless otherwise determined by the Financial Services Tribunal.";

(f) sub-regulation (9) thereof shall be renumbered as sub-regulation (10);

(g) immediately after sub-regulation (8) thereof, there shall be added the following new sub-regulation:

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"(9) Article 48A of the Act shall not apply."; and

(h) in sub-regulation (10) thereof, as renumbered, for the words "an affiliated insurance company or an affiliated reinsurance company.", there shall be substituted the words "a captive insurance undertaking or a captive reinsurance undertaking.".

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