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

L.N. 399 of 2015

INSURANCE BUSINESS ACT (CAP. 403)

European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2015

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

PRELIMINARY

Citation, scope and commencement.

1. (1) The title of these regulations is the European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2015.

(2) The purpose of these regulations is to implement Articles 13 (in part), 30(3), 33, 39(6) (in part), 144(2), 145(1), (2)(a) to (d), (3) and (4), 146, 147, 148, 149, 150(1) and (2), 155(1) to (4) and (6) to (9), 156, 158 and 189 of the Solvency II Directive and shall be interpreted and applied accordingly.

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

Interpretation.

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

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

"branch" means an agency or branch of an insurance or reinsurance undertaking which is located in the territory of a Member State or EEA State, other than the home Member State, and includes any permanent presence of an undertaking in the territory of a Member State or EEA State, even if that presence does not take the form of a branch but consists merely of an office managed by the own staff of the undertaking or by a person who is independent but has permanent authority to act for the undertaking as an agency would;

"Commission" means the Commission of the European Union;

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

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"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May, 1992 as amended by the Protocol signed at Brussels on the 17th March, 1993 and as amended from time to time;

"European insurance undertaking" means an undertaking having its head office in a Member State or an EEA State, other than Malta, pursuing the activity of direct insurance within the meaning of Article 2 of the Solvency II Directive which has received authorisation in accordance with Article 14 of the Solvency II Directive;

"European reinsurance undertaking" means an undertaking having its head office in a Member State or an EEA State, other than Malta, pursuing business restricted to reinsurance within the meaning of Article 2 of the Solvency II Directive which has received authorisation in accordance with Article 14 of the Solvency II Directive;

"European regulatory authority" means the supervisory authority or supervisory authorities as defined in Article 13(10) of the Solvency II Directive, designated by a Member State or EEA State, other than Malta, empowered by law or regulation to supervise European insurance undertakings or European reinsurance undertakings;

"European right" means the entitlement of an insurance or reinsurance undertaking to establish a branch, or provide services, in a Member State or an EEA State other than that in which it has its head office -

(a) in accordance with the Treaty as applied in a Member State or an EEA State;

(b) subject to the requirements of the Solvency II Directive and subject to any regulations made under the Act, or Insurance Rules issued by the competent authority pursuant to the Act, implementing such requirements;

"home Member State" means any of the following:

(a) for general business of insurance, the Member State or EEA State in which the head office of the insurance undertaking covering the risk is situated; or

(b) for long term business, the Member State or EEA State in which the head office of the insurance undertaking covering the commitment is situated; or

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(c) for reinsurance, the Member State or EEA State in which the head office of the reinsurance undertaking is situated.

"host Member State" means the Member State or EEA State, other than Malta, in which a Maltese insurance undertaking or a Maltese reinsurance undertaking exercises or proposes to exercise a European right; for long term and general business of insurance, the Member State of the provision of services means, respectively, the Member State or EEA State of the commitment or the Member State or EEA State in which the risk is situated, where that commitment or risk is covered by a Maltese insurance undertaking or a branch of the undertaking situated in another Member State or EEA State;

"Insurance Rules" has the same meaning as is assigned to it by article 2 of the Act;

"Maltese insurance undertaking" means an undertaking authorised in terms of the Act, whose head office is in Malta and which is entitled to carry on business of insurance in a Member State or EEA State, in exercise of a European right but excludes an undertaking whose business is restricted to reinsurance;

"Maltese reinsurance undertaking" means an undertaking authorised in terms of the Act to carry on business restricted to reinsurance, whose head office is in Malta and which is entitled to carry on business in a Member State or EEA State in exercise of a European right;

"Maltese rules" means rules -

(a) made pursuant to the Solvency II Directive; and

(b) which are the responsibility of the competent authority (as to implementation, enforcement and compliance) and subject to the provisions of the Act and any regulations and Insurance Rules made thereunder;

"Member State" means a Member State of the European Union;

"Ordinance" means the Motor Vehicle Insurance (Third-Party Risks) Ordinance, or any enactment replacing that law, and any regulations made thereunder; Cap. 104.

"risk situated in a Member State or EEA State" means:

(a) the Member State or EEA State in which the property is situated, where the insurance relates either to buildings or to buildings and their contents, in so far as the

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contents are covered by the same insurance policy;

(b) the Member State or EEA State of registration where the insurance relates to vehicles of any type;

(c) the Member State or EEA State where the policyholder took out the policy in the case of policies of a duration of four months or less, covering travel or holiday risks, whatever the class concerned; or

(d) in all cases not explicitly covered by paragraphs (a), (b), and (c), the Member State or EEA State in which either of the following is situated:

(i) the habitual residence of the policyholder; or

(ii) if the policyholder is a legal person, that policyholder's establishment to which the contract relates;

"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 any delegated acts and any technical standards that have been or may be issued thereunder;

"Treaty" means Treaty of Rome signed in 1957, establishing the European Economic Community and as subsequently amended;

"Tribunal" means the Financial Services Tribunal referred to in article 57 of the Act.

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein, shall have the same meaning assigned to them as in the Act.

(3) These regulations shall apply to a European reinsurance undertaking or a Maltese reinsurance undertaking in the following manner:

(a) in the case of a European reinsurance undertaking, the Preliminary and Part III and VI thereof shall apply; and

(b) in the case of a Maltese reinsurance undertaking, the Preliminary and Part IV thereof shall apply.

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PART I

Exercise of Passport Rights by European Insurance Undertakings

Exercise of passport rights by European insurance undertakings - establishment.

3. (1) A European insurance undertaking which is seeking to establish a branch in Malta in exercise of a European right shall satisfy the establishment conditions specified in sub-regulation (2) and shall be exempt from the Act in accordance with the provisions of article 6 of the said Act.

(2) The establishment conditions for the purposes of this regulation are that -

(a) the European insurance undertaking has given to its European regulatory authority a notice containing the requisite details in terms of Article 145 of the Solvency II Directive;

(b) the competent authority has received from the European regulatory authority of such European insurance undertaking a consent notice in accordance with paragraph (c) stating that it has given its consent to the insurance undertaking to establish a branch in Malta; and

(c) the consent notice shall include:

(i) a scheme of operations setting out, *inter alia*, the types of business envisaged and the structural organisation of the branch;

(ii) the address in Malta from where documents may be obtained and to which they may be delivered, and such address shall be the one to which all communications to the general representative are to be sent;

(iii) the name of the general representative who must possess sufficient powers to bind the insurance undertaking in relation to third parties, and to represent it or them in relations with the competent authority and courts in Malta;

(iv) a certificate issued by the European regulatory authority of the European insurance undertaking attesting that such undertaking covers the Solvency Capital Requirement and the Minimum Capital Requirement calculated in accordance with Articles 100 and 129 of the Solvency II Directive;

(v) confirmation that such European insurance

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undertaking is authorised to carry on the business of insurance which it proposes to carry on in Malta; and

(vi) details of any insurance guarantee scheme, if applicable, which is intended to protect the branch's policyholders in a manner not being less favourable than that prescribed in Part III of the Protection and Compensation Fund Regulations.

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(3) The European insurance undertaking shall inform the competent authority of any change in the details of an insurance guarantee scheme referred to in sub-regulation (2).

(4) Before the branch of a European insurance undertaking commences business, the competent authority shall, within two months of receiving the information referred to in sub-regulation (2), inform the European regulatory authority concerned of the applicable provisions under which, in the interest of the general good, that business shall be carried on in Malta:

Provided that a European insurance undertaking may establish the branch and commence business as from the date upon which the European regulatory authority concerned has received the applicable provisions, or, if no applicable provisions are received, on the expiry of the period referred to in this sub-regulation.

(5) In the event of a change in any of the particulars communicated in accordance with sub-regulation (2)(c)(i), (ii) and (iii), the European insurance undertaking shall give written notice of the change to its European regulatory authority and to the competent authority at least one month before implementing the change so that the authorities concerned may fulfil their obligations under Article 146 of the Solvency II Directive.

(6) For the purpose of this regulation, "applicable provisions" means the Maltese rules in accordance with which the European insurance undertaking is required to comply when carrying on the class or classes of long term business or class or classes or part classes of general business, identified in the consent notice, through a branch in Malta.

Exercise of passport rights by European insurance undertakings - services.

4. (1) A European insurance undertaking which is seeking to provide services in Malta in exercise of a European right shall satisfy the service conditions specified in sub-regulation (2) and shall be exempt from the Act in accordance with the provisions of article 6 of the said Act.

(2) The service conditions for the purposes of this regulation

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are that -

(a) the European insurance undertaking has given its European regulatory authority a notice of intention to provide services in Malta with the requisite details in terms of Article 147 of the Solvency II Directive;

(b) the competent authority has received a notice of such intention from the European regulatory authority of the European insurance undertaking containing the following information and documentation:

(i) a certificate attesting that the European insurance undertaking covers the Solvency Capital Requirement and the Minimum Capital Requirement calculated in accordance with Articles 100 and 129 of the Solvency II Directive;

(ii) the class or classes of long term business or class or classes or part classes of general business which the European insurance undertaking has been authorised to offer;

(iii) the nature of the risks which the undertaking proposes to cover or the commitments which it proposes to undertake in Malta.

(3) When the competent authority has received such a notice from the European regulatory authority of the European insurance undertaking and has been informed of the intention of the European insurance undertaking to provide services in Malta, it shall, where appropriate, notify the European insurance undertaking and the European regulatory authority of the applicable provisions, if any.

(4) The European insurance undertaking may commence to provide services in Malta as from the date on which it is informed that the notice of intention referred to in sub-regulation (2)(b) has been given to the competent authority.

(5) In the event of a change in the nature of the risks or commitments it proposes to cover in Malta, the European insurance undertaking shall give written notice of that change to its European regulatory authority before implementing such change. Before such changes are implemented, the competent authority shall be informed of such changes by the European regulatory authority concerned.

(6) For the purposes of this regulation, "applicable provisions"

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means the Maltese rules in accordance with which the European insurance undertaking is required to comply when providing services in Malta in the class or classes of long term business or class or classes or part classes of general business, identified in the notice provided by its European regulatory authority.

European insurance undertaking covering risks relating to class 10.

5. (1) Any European insurance undertaking intending to carry on business of insurance in Malta in exercise of a European right, covering a risk relating to class 10 of Part 1 of the Third Schedule to the Act, other than carrier's liability, shall be required to provide the competent authority with the information contained in Insurance Rules issued for the purposes of these regulations.

(2) Where a European insurance undertaking, through an establishment situated in a Member State or EEA State, other than Malta, intends to cover a risk situated in Malta in class 10 of Part 1 of the Third Schedule to the Act, other than carrier's liability, the competent authority shall require that undertaking to become a member of and participate in the financing of the Motor Insurers' Bureau in Malta and the Protection and Compensation Fund for the purposes of Part IV of the Protection and Compensation Fund Regulations.

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(3) The financial contribution referred to in sub-regulation (2) shall only be made in relation to risks under class 10 of Part 1 of the Third Schedule to the Act, other than carrier's liability, covered by way of provision of services.

(4) The financial contribution shall be calculated on the same basis as for European insurance undertakings covering the risks referred to in sub-regulation (2), through an establishment situated in Malta. This calculation shall be made by reference to the European insurance undertaking's premium income from that class in Malta.

Advertising.

6. A European insurance undertaking pursuing activities in Malta in exercise of a European right shall not be prohibited from advertising its services through all available means of communication in Malta provided that it complies with Insurance Rules issued by the competent authority in the interest of the general good.

On-site verifications.

7. (1) Where a European insurance undertaking carries on business of insurance in Malta through a branch in exercise of a European right, its European regulatory authority may, after having first informed the competent authority, carry out itself or through an intermediary it appoints for that purpose, on-site verification of the information necessary to ensure the financial supervision of the undertaking. The competent authority may participate in that verification.

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(2) Where the competent authority is unable to exercise its right to participate in accordance with sub-regulation (1), it may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

(3) Where the competent authority has reason to consider that the activities of a European insurance undertaking, carrying on business of insurance in exercise of a European right in Malta, might affect financial soundness of the European insurance undertaking, it shall inform the European regulatory authority of that undertaking.

PART II

Exercise of Passport Rights by Maltese Insurance Undertakings

Exercise of passport rights by Maltese insurance undertakings - establishment.

8. (1) A Maltese insurance undertaking may exercise a European right to establish a branch if it satisfies the requirements set out in the following provisions of this regulation.

(2) Pursuant to article 10(3) of the Act, a Maltese insurance undertaking intending to establish a branch in exercise of a European right shall give the competent authority a notice of intention which shall contain -

(a) the Member State or EEA State within the territory of which the insurance undertaking proposes to establish a branch;

(b) a scheme of operations setting out, inter alia, the types of business envisaged and the structural organisation of the branch;

(c) the address of the proposed branch from where documents may be obtained and to which they may be delivered, and such address shall be the one to which all communications to the general representative are to be sent;

(d) the name of the branch's general representative who must possess sufficient powers to bind the insurance undertaking in relation to third parties and to represent it in relations with the authorities and courts of the host Member State; and

(e) such other information as may be specified by means of Insurance Rules.

(3) Without prejudice to sub-regulations (5), (6) and (7), the competent authority shall give a consent notice within the meaning of

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sub-regulation (4) to the European regulatory authority concerned within three months of receiving a complete notice of intention.

(4) The consent notice shall -

(a) be given in accordance with the Solvency II Directive;

(b) attest that the Maltese insurance undertaking covers the Solvency Capital Requirement and the Minimum Capital Requirement calculated in accordance with articles 15 and 17 of the Act;

(c) confirm that the Maltese insurance undertaking is authorised to carry on the classes of business of insurance which the branch proposes to carry on;

(d) contain the information stated in the notice of intention of the Maltese insurance undertaking; and

(e) include such other information as may be established by means of Insurance Rules.

(5) (a) Unless the competent authority has reason to doubt the adequacy of the system of governance, or the financial situation of the Maltese insurance undertaking or the fit and proper requirements in accordance with Article 42 of the Solvency II Directive of the general representative, taking into account the business planned, it shall, within three months of receiving the information referred in sub-regulation (2)(b), (c) and (d), communicate that information to the European regulatory authority of the branch and shall inform the undertaking concerned accordingly.

(b) Where the competent authority refuses to communicate the information referred to in sub-regulation (2) to the European regulatory authority of the branch, it shall give the reasons for its refusal to the undertaking concerned within three months of receiving all the information in question. The refusal or failure to act in the period stipulated shall be subject to a right of appeal to the Tribunal and the provisions of article 58 of the Act shall apply *mutatis mutandis*.

(6) On receiving a communication from the European regulatory authority of the branch, or if no communication is received by the competent authority from that European regulatory authority within two months of communicating the notice referred to in sub-regulation (3), the Maltese insurance undertaking may establish the

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branch and commence business in that Member State or EEA State.

(7) Any communication relating to the applicable provisions under which that business must be carried on in the host Member State shall be communicated to the undertaking concerned.

(8) In the event of a change in any of the particulars communicated in accordance with sub-regulation (2)(b), (c) and (d) the Maltese insurance undertaking shall give written notice of the change to the competent authority and to the European regulatory authority of the branch at least one month before implementing the change.

(9) For the purposes of this regulation -

"applicable provisions" means the host state rules with which the Maltese insurance undertaking is required to comply when conducting business through the proposed branch in the host Member State concerned;

"host state rules" means rules made by the European regulatory authority concerned in accordance with the Solvency II Directive.

Exercise of passport rights by Maltese insurance undertakings - services.

9. (1) A Maltese insurance undertaking which intends to provide services for the first time in one or more Member States or EEA States in exercise of a European right shall first provide a notice of intention to the competent authority indicating:

(a) the nature of the commitments it proposes to cover, or the risks which it proposes to undertake;

(b) the Member State or EEA State in which it intends to operate; and

(c) such other information as may be specified in Insurance Rules.

(2) The competent authority shall, within one month of receiving the notice of intention give a consent notice to the European regulatory authority concerned containing -

(a) a certificate attesting that the Maltese insurance undertaking covers the Solvency Capital Requirement and the Minimum Capital Requirement calculated in accordance with articles 15 and 17 of the Act;

(b) the class or classes of long term business or class or classes or part classes of general business which the insurance

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undertaking has been authorised to carry on; and

(c) the nature of the risks which the insurance undertaking proposes to undertake or commitments it proposes to cover in the host Member State.

(3) When the competent authority sends the information contained under sub-regulation (2), it shall give written notice to the Maltese insurance undertaking concerned. The Maltese insurance undertaking may, after having received such written notice, start to provide the services in question in the host Member State:

Provided that, where appropriate, the European regulatory authority concerned communicates to the competent authority, any conditions with which, in the interest of the general good, the undertaking is required to comply with in the host Member State, the competent authority shall, on receipt of such information, inform the Maltese insurance undertaking accordingly.

(4) Where the competent authority does not provide a consent notice within the period indicated in sub-regulation (2) it shall give written notice to the Maltese insurance undertaking of -

(a) its refusal to give a consent notice; and

(b) its reasons for that refusal:

Provided that, such notice is subject to a right of appeal to the Tribunal and the provisions of article 58 of the Act shall apply *mutatis mutandis*.

(5) In the event of a change in any of the particulars provided by the Maltese insurance undertaking in the notice of intention, the Maltese insurance undertaking shall give written notice of that change to the competent authority and the procedure provided for in this regulation shall apply accordingly.

PART III

European Reinsurance Undertakings Carrying On Business of Reinsurance in Malta

Exercise of passport rights by European reinsurance undertakings.

10. (1) Subject to sub-regulation (2), a European reinsurance undertaking authorised in accordance with Article 14 of the Solvency II Directive, shall be entitled to carry on business of reinsurance in Malta under the right of establishment or freedom to provide services in exercise of a European right.

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(2) The entitlement to carry on business of reinsurance in Malta is to be treated as being on conditions or terms equivalent to those set out in the authorisation issued to a European reinsurance undertaking by its European regulatory authority; and shall be restricted to the business of reinsurance which the European reinsurance undertaking is authorised to carry on by its European regulatory authority.

(3) Where the competent authority has reason to consider that the activities of a European reinsurance undertaking, carrying on business of reinsurance in exercise of a European right in Malta, might affect the financial soundness of the European reinsurance undertaking, it shall inform the European regulatory authority of that undertaking.

(4) Where a European reinsurance undertaking carries on business of reinsurance in Malta through a branch in exercise of European right, its European regulatory authority may, after having first informed the competent authority, carry out itself, or through an intermediary it appoints for that purpose, on-site verification of the information necessary to ensure the financial supervision of the undertaking. The competent authority may participate in that verification.

(5) Where the competent authority is unable to exercise its right to participate in accordance with sub-regulation (4), it may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

Contravention by European reinsurance undertakings.

11. (1) Where the competent authority ascertains that a European reinsurance undertaking which has established a branch in Malta or provides services in Malta has contravened or is likely to contravene the Maltese rules, it shall, in writing, require the European reinsurance undertaking to remedy that irregular situation. At the same time, the competent authority shall refer those findings to the European regulatory authority of that undertaking.

(2) If despite the measures taken by the European regulatory authority, or because such measures prove inadequate, the European reinsurance undertaking persists in violating the Maltese rules referred to in sub-regulation (1) in force in Malta, the competent authority may, after informing the European regulatory authority, take appropriate measures to prevent or penalise further irregularities, including, in so far as is strictly necessary, to prevent that European reinsurance undertaking from continuing to conclude new reinsurance contracts in Malta. In addition, the competent authority may refer the matter to EIOPA and request its assistance in accordance with Article

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19 of Regulation (EU) 1094/2010.

(3) Without prejudice to the requirement contained in regulation 12(2)(c) for the purposes of this regulation, the competent authority may require a European reinsurance undertaking which carries on business of insurance in Malta pursuant to these regulations to appoint a person on whom to serve the legal documents necessary for such measures.

(4) Any measure adopted pursuant to this regulation, involving sanctions or restrictions on the conduct of the business of reinsurance, shall be communicated to the European reinsurance undertaking concerned in writing, together with reasons justifying such measures.

PART IV

Exercise of Passport Rights by Maltese Reinsurance Undertakings

Exercise of passport rights by Maltese reinsurance undertakings - establishment.

12. (1) No Maltese reinsurance undertaking authorised under the Act shall establish a branch in a Member State or EEA State in exercise of a European right without the written consent of the competent authority.

(2) Pursuant to article 10(3) of the Act, a Maltese reinsurance undertaking intending to establish a branch in exercise of a European right shall give the competent authority the following information -

(a) the Member State or EEA State within the territory of which the undertaking proposed to establish a branch;

(b) the address of the proposed branch from where the documents may be obtained and to which they may be delivered and such address shall be the one to which all communications to the general representative are to be sent;

(c) the name of the branch's general representative who must possess sufficient powers to bind the undertaking in relation to third parties and represent it in relation authorities and courts of the host Member State;

(d) the type of reinsurance activity, according to Article 15(5) of the Solvency II Directive into which the planned business falls; and

(e) such other information as may be specified by means of Insurance Rules.

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(3) The competent authority shall forward the information referred to in sub-regulation (2) to the European regulatory authority of the branch within one month of receiving such information from the Maltese reinsurance undertaking.

(4) In the event of a change in any of the information communicated in accordance with sub-regulation (2), the Maltese reinsurance undertaking shall inform the competent authority. The competent authority shall inform the European regulatory authority of the branch of such change, as soon as possible and in any event no later than one month after having received the information from the Maltese insurance undertaking.

PART V

European Insurance Undertakings Not Complying with Legal Provisions

Contravention by European insurance undertakings.

13. (1) Where the competent authority ascertains that a European insurance undertaking which has established a branch in Malta or provides services in Malta -

(a) has contravened or is likely to contravene the Maltese rules;

(b) in purported compliance with any such provisions, has furnished it with false, inaccurate or misleading information; or

(c) has failed to comply with any condition, limitation, requirement, directive or order made or given under any of the provisions of the Act, or of any regulations made thereunder or any Insurance Rules,

it shall, in writing, require the insurance undertaking concerned to remedy such irregularity.

(2) If the European insurance undertaking concerned fails to take necessary steps to remedy that irregular situation, the competent authority shall inform the European regulatory authority of the European insurance undertaking of such failure, and request the European regulatory authority, at the earliest opportunity, to take all appropriate measures to ensure that the European insurance undertaking concerned remedies that irregular situation. The nature of those measures shall be communicated to the competent authority.

(3) If, despite the measures taken by the European regulatory authority, or because those measures prove to be inadequate or are

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insufficient, the European insurance undertaking persists in violating the legal or regulatory provisions referred to in sub-regulation (1) in force in Malta, the competent authority may, after informing the European regulatory authority, take appropriate measures to prevent or penalise further irregularities, including, in so far as is strictly necessary, to prevent that insurance undertaking from continuing to conclude new insurance contracts in Malta. In addition, the competent authority, may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No. 1094/2010.

(4) Without prejudice to the requirement contained in regulation 8(2)(d), for the purposes of this regulation, the competent authority may require the European insurance undertaking which carries on business of insurance in Malta, pursuant to these regulations, to appoint a person on whom to serve the legal documents necessary for such measures.

(5) Without prejudice to sub-regulations (1), (2) and (3), the competent authority may take appropriate emergency measures to prevent or sanction irregularities within its territories, including the possibility of preventing a European insurance undertaking from continuing to conclude new insurance contracts in Malta.

(6) Any measure adopted pursuant to this regulation involving restrictions on the conduct of insurance business shall be communicated to the European insurance undertaking concerned in writing, together with reasons justifying such measures.

(7) A European insurance undertaking shall submit to the competent authority at its request, all documents requested of it for the purposes of this regulation to the extent that a Maltese insurance undertaking is required to do so in terms of Maltese law.

(8) If a European insurance undertaking which is in breach of any provisions of these regulations has an establishment or possesses property of any description in Malta, the competent authority may, in accordance with national law, impose an administrative penalty pursuant to article 67 of the Act.

(9) Where the competent authority is informed by a European regulatory authority of the withdrawal of the authorisation of a European insurance undertaking carrying on business of insurance in Malta in the exercise of a European right, it shall take appropriate measures to prevent the undertaking concerned from concluding new insurance contracts in Malta under either the right of establishment or the freedom to provide services. The competent authority shall, in conjunction with those authorities, take all necessary measures to

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safeguard the interests of insured persons, policyholders, creditors and other interested persons and shall restrict, in particular, the free disposal of assets of the undertaking pursuant to Article 144(2) of the Solvency II Directive and may make or issue public statements or notices in relation to these measures.

PART VI

General Provisions

Sanctions.

14. The competent authority may impose an administrative penalty pursuant to article 67 of the Act on any insurance and reinsurance undertaking which acts in contravention of the provisions of these regulations.

Publicity requirements for transfers of portfolio.

15. In the case of a proposed transfer of portfolio, which may include or includes risks situated in Malta or commitments where Malta is the country of commitment, of a European insurance undertaking carrying on activities in Malta in exercise of a European right, requesting the approval of the competent authority in terms of Article 39 of the Solvency II Directive, the competent authority may, in the interest of policyholders, insured persons and any other person having rights or obligations arising out of the contracts transferred, require such measures, as may be necessary, to be taken, which may include the publication of a notice in two local daily newspapers or a notice to be sent to every policyholder affected by the transfer.

Information to Commission and EIOPA.

16. The competent authority shall inform the Commission and EIOPA of the number and types of cases which led to refusals under regulation 8(5)(b) and regulation 9(4) or in which measures have been taken in terms of regulation 13(3) and (5).

Insurance Rules.

17. (1) For the better carrying out of these regulations, the competent authority may, from time to time, issue Insurance Rules.

(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.

Revocation of the European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2004, and savings. L.N. 89 of 2004.

18. (1) The European Passport Rights for Insurance and Reinsurance Undertakings Regulations, 2004, hereinafter referred to as "the revoked regulations", are hereby revoked.

(2) Nothing in these regulations shall be deemed to affect anything done, or omitted to be done under the revoked regulations prior to the coming into force of these regulations.

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