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

**L.N. 400 of 2015**

# INSURANCE BUSINESS ACT
# (CAP. 403)

## Insurance Business (Commission Delegated Regulation on Solvency II) Regulations, 2015

IN exercise of the powers conferred by article 64(7) of the Insurance Business Act, the Minister for 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 (Commission Delegated Regulation on Solvency II) Regulations, 2015.

(2) The purpose of these regulations is to implement the relevant provisions of the EU Regulation.

(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" is the Insurance Business Act. Cap. 403.

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

"EU Regulation" means the Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);

"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

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Markets Authority) ("Omnibus II");

"Financial Services Tribunal" means the tribunal established in terms of article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(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 is in the Act.

Competent authority. Cap. 330.

**3.** The Malta Financial Services Authority, established by the Malta Financial Services Authority Act, shall be the designated competent authority in Malta for the purposes of implementing the relevant provisions of the EU Regulation, and any reference in these regulations to the competent authority shall be read and construed accordingly.

Applicability of the EU Regulation to the competent authority.

**4.** The competent authority shall exercise all functions, obligations and powers and shall satisfy all the requirements imposed on supervisory authorities, by the EU Regulation.

Applicability of the EU Regulation to undertakings and reinsurance special purpose vehicles. S.L. 403.19

**5.** The provisions of the EU Regulation shall apply to authorised insurance undertakings and authorised reinsurance undertakings, including captive insurance undertakings and captive reinsurance undertakings, to reinsurance special purpose vehicles authorised under the Reinsurance Special Purpose Vehicles Regulations, and to insurance undertakings and reinsurance undertakings which are included within the scope of group supervision.

Insurance Rules.

**6.** For the better carrying out of the provisions of the EU Regulation and of these regulations, the competent authority may, from time to time, issue and publish Insurance Rules which will be binding on all the persons referred to in regulation 5. Such Insurance Rules may lay down additional requirements and conditions and any other matters as the competent authority may consider appropriate including:

(a) the operation of the EU Regulation or of these regulations;

(b) any matter relating to the functions, obligations and powers of the competent authority under the EU Regulation; and

(c) any other matter arising in connection with the EU Regulation or these regulations.

Administrative penalties.

**7.** Where any of the persons referred to in regulation 5

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contravenes or fails to comply with any provisions of the EU Regulation, these regulations and any Insurance Rules issued thereunder, the competent authority may, by notice in writing and without recourse to a court hearing, impose on such undertaking an administrative penalty not exceeding one hundred and fifty thousand euro (€150,000).

**8.** A right of appeal to the Financial Services Tribunal shall lie from a decision of the competent authority to impose a penalty in terms of regulation 7 and the provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis*. Appeals. Cap. 330.

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