

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 19,669, 28 ta' Ottubru, 2016

Taqsimha B

L.N. 347 of 2016

**COMPANIES ACT
(CAP. 386)**

**INSURANCE BUSINESS ACT
(CAP. 403)**

**SECURITISATION ACT
(CAP. 484)**

Securitisation Cell Companies (Amendment) Regulations, 2016

IN exercise of the powers conferred by article 84A and 84C of the Companies Act, article 64 of the Insurance Business Act, and article 23 of the Securitisation Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. The title of these regulations is the Securitisation Cell Companies (Amendment) Regulations, 2016, and these regulations shall be read and construed as one with the Securitisation Cell Companies Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 386.16

2. In sub-regulation (1) of regulation 2 of the principal regulations, for the definition "group" there shall be substituted the following:

Amends regulation 2 of the principal regulations.

" "group" shall be construed in accordance with the definition "group company" in article 2 of the Act;"

3. Regulation 29 of the principal regulations shall be substituted by the following:

Substitutes regulation 29 of the principal regulations.

"Interpretation.

29. For the purposes of this Part, the following definitions shall apply:

S.L.403.19

"EU Delegated Regulation" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations;

S.L.403.19

"EU Implementing Regulation" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations;

S.L.403.19

"EU Regulations" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations;

S.L.403.19 "Insurance Rules" has the same meaning assigned to it in the Reinsurance Special Purpose Vehicles Regulations."

Amends regulation 32 of the principal regulations.

4. In sub-regulation (5) of regulation 32 of the principal regulations, for the words "regulation 13", there shall be substituted the word "regulation 10".

Amends regulation 33 of the principal regulations.

5. In regulation 33 of the principal regulations, for the words "an insurance rule", there shall be substituted the words "Insurance Rules".

Amends regulation 34 of the principal regulations.

6. In sub-regulation (1) of regulation 34 of the principal regulations, for the words "regulations 6(4) and 16(2)(f)", there shall be substituted the words "Article 321 of the EU Delegated Regulation and regulation 13(2)(f)".

Substitutes regulation 35 of the principal regulations.

7. Regulation 35 of the principal regulations shall be substituted by the following:

"Application of the Reinsurance Special Purpose Vehicles Regulations. S.L. 403.19.

35. (1) Save as otherwise varied by this regulation, the provisions of the Reinsurance Special Purpose Vehicles Regulations and any Insurance Rules issued thereunder, shall *mutatis mutandis* apply to a securitisation cell company carrying on the business of a reinsurance special purpose vehicle:

S.L. 403.19.

Provided that where any provisions of the Reinsurance Special Purpose Vehicles Regulations, or any Insurance Rules issued thereunder, are inconsistent with the provisions of these regulations, the provisions of these regulations shall prevail and the provisions of the Reinsurance Special Purpose Vehicles Regulations, or of any Insurance Rules made thereunder shall, to the extent of the inconsistency, not apply to a securitisation cell company carrying on business as a reinsurance special purpose vehicle:

Provided that the status of each cell as a patrimony separate from the assets and liabilities of each other cell and of the securitisation cell company shall be respected:

Provided further that a securitisation cell company set up in accordance with this Part may enter into contractual arrangements and risk transfer arrangements giving rise to rights and obligations in respect of a cell to the exclusion of other cells.

S.L. 403.19. (2) The following provisions of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company in the manner provided hereunder:

S.L. 403.19. (a) regulation 9 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company as a whole and on a cell by cell basis;

S.L. 403.19. (b) without prejudice to regulation 32(5), regulation 10 of the Reinsurance Special Purpose Vehicles Regulations shall apply to a securitisation cell company as a whole.

(3) The following provisions of the EU Regulations shall apply to a securitisation cell company in the manner provided hereunder:

(a) article 318 of the EU Delegated Regulation shall apply to a securitisation cell company as follows:

(i) paragraph (a) thereof shall apply to a securitisation cell company as a whole;

(ii) paragraph (b) thereof shall apply to a securitisation cell company as a whole and in respect of each of its cells individually;

(iii) paragraph (c) thereof shall apply in so far as the contractual arrangements to be entered into by a securitisation cell company in respect of any of its cells, and the investment in respect of such cell shall satisfy the conditions set out in Articles 319 to 321 of the EU Delegated Regulation;

(iv) paragraph (d) thereof shall be deemed to require the persons who effectively direct or manage the securitisation cell company to satisfy the requirements of Article 322 of the EU Delegated Regulation in respect of each and every cell as well as the securitisation cell company as a whole;

(v) paragraph (e) thereof shall apply to a securitisation cell company as a whole with the additional requirement that the securitisation cell company shall also have the obligation to disclose the identity of holders of shares with a qualifying shareholding in any of its cells;

(vi) paragraph (f) thereof shall apply to the securitisation cell company as a whole;

(vii) subject to paragraph (g) thereof shall apply to the securitisation cell company as a whole;

(viii) paragraph (h) thereof shall apply to a securitisation cell company as a whole and in respect of each of its cells individually;

(b) Articles 319 of the EU Delegated Regulation shall apply to a securitisation cell company as a whole and on a cell by cell basis;

(c) Article 320 of the EU Delegated Regulation shall apply to a securitisation cell company in respect of each cell individually;

(d) Article 325 of the EU Delegated Regulation shall apply to a securitisation cell company with the added obligation that reports to be submitted to the competent authority shall clearly distinguish between the activities carried out in respect of each individual cell;

(e) Article 326 of the EU Delegated Regulation shall apply to a securitisation cell company as a whole and on a cell by cell basis;

(f) Article 327 of the EU Delegated Regulation shall apply to a securitisation cell company as a whole and on a cell by cell basis;

(g) Articles 13 and 14 of the EU Implementing Regulation shall apply to a securitisation cell company with the added obligation that reports to be submitted to the competent authority shall clearly distinguish between the activities carried out in respect of each individual cell."

