Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,656, 2 ta' Lulju, 2021

Taqsima B

L.N. 279 of 2021

INSURANCE BUSINESS ACT (CAP. 403)

European Passport Rights for Insurance and Reinsurance Undertakings (Amendment) Regulations, 2021

IN EXERCISE of the powers conferred by article 64 of the Insurance Business Act, the Minister responsible for the regulation of financial services, 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 European Passport Rights for Insurance and Reinsurance Undertakings (Amendment) Regulations, 2021 and these regulations shall be read and construed as one with the European Passport Rights for Insurance and Reinsurance Undertakings Regulations, hereinafter referred to as "the principal regulations".

S.L. 403. 14.

(2) The scope of these regulations is to transpose Articles 2(3) of Directive (EU) 2019/2177 of the European Parliament and of the Council of 18 December 2019 amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on markets in financial instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

(3) These regulations shall be deemed to have come on the 30th June 2021.

Amends regulation 1 of the principal regulations.

2. In sub-regulation (2) of regulation 1 of the principal regulations, for the words "150(1) and (2), 155(1)", there shall be substituted the words "150(1) and (2), 152a(2), (3) and (4), 152b, 155(1)".

Adds new Parts to the principal regulations.

3. Immediately after sub-regulation (9) of regulation 13 of the principal regulations there shall be added the following new Parts:

"PART V *bis*
Notifications and Collaboration Platforms - Maltese Insurance and Maltese Reinsurance Undertakings

Notification to EIOPA and the relevant European regulatory authority.

13A. (1) Where the competent authority identifies deteriorating financial conditions or other emerging risks posed by a Maltese insurance undertaking or a Maltese reinsurance undertaking carrying out activities in exercise of a European right and which may have a cross-border effect, the competent authority shall, without prejudice to any of its powers under these regulations or any other law, also notify:

(a) EIOPA; and

(b) the relevant European regulatory authority:

Provided that the competent authority shall ensure that such notification shall be sufficiently detailed to allow for a proper assessment.

(2) Where no bilateral solution can be found between the competent authority and the relevant European regulatory authority, the competent authority may refer the matter to EIOPA and request its assistance.

Collaboration platforms.

13B. (1) Without prejudice to any of its powers under these regulations or any other law and to the right of the competent authority to set up a collaboration platform with other relevant European regulatory authorities where they jointly so agree, the competent authority may request EIOPA to set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant European regulatory authorities including the competent authority. The competent authority may request to set up the said collaboration platform where a Maltese insurance undertaking or Maltese reinsurance undertaking carries out activities in exercise of a European right and where:

(a) such activities are of relevance with respect to another host Member State's market;

(b) a notification by the competent authority of deteriorating financial conditions or other emerging risks has been made under regulation 13A(1); or

(c) the matter has been referred to EIOPA by the competent authority under regulation 13A(2) or by a relevant European regulatory authority in terms of Article 152a(2) of the Solvency II Directive.

(2) Without prejudice to Article 35 of Regulation (EU) No 1094/2010, at the request of EIOPA, the competent authority shall provide to EIOPA all the necessary information in a timely manner to allow for the proper functioning of the collaboration platform.

PART V *ter*

Notifications and Collaboration Platforms - European Insurance and European Reinsurance Undertakings

Notification to the relevant European regulatory authority.

13C. (1) Without prejudice to any of its powers under these regulations or under any other law, where the competent authority has serious and reasoned concerns with regard to consumer protection being posed by a European insurance undertaking or a European reinsurance undertaking carrying out activities in Malta in exercise of a European right, it may notify the European regulatory authority of such European insurance undertaking or of such European reinsurance undertaking, as the case may be:

Provided that the competent authority shall ensure that such notification shall be sufficiently detailed to allow for a proper assessment.

(2) Where no bilateral solution can be found between the competent authority and the relevant European regulatory authority in receipt of the notification made under sub-regulation (1), the competent authority may refer the matter to EIOPA and request its assistance.

Collaboration platforms.

13D. (1) Without prejudice to any of its powers under these regulations or any other law and to the right of the competent authority to set up a collaboration platform with other relevant European regulatory authorities where they jointly so agree, the competent authority may request EIOPA to set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant European regulatory authorities including the competent authority. The said collaboration platform may be set up, where a European insurance undertaking or a European reinsurance undertaking carries out activities in exercise of a European right in Malta, and where:

(a) such activities are of relevance to the market in Malta;

(b) a notification by the European regulatory authority of deteriorating financial conditions or other emerging risks has been made under Article 152a(2) of the Solvency II Directive; or

(c) the matter has been referred to EIOPA by the competent authority under article 13C(2) or by the relevant European regulatory authority in terms of Article 152a(2) of the Solvency II Directive.

(2) Without prejudice to Article 35 of Regulation (EU) No 1094/2010, at the request of EIOPA, the competent authority shall provide to EIOPA all the necessary information in a timely manner to allow for the proper functioning of the collaboration platform.".

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