

MALTA

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**ATT TA' L-2006 DWAR L-INTERMEDJARJI FL-ASSIGURAZZJONI**

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L-Intermedjarji fl-Assigurazzjoni u Attivitàjiet ta' Intermedjarji fl-Assigurazzjoni	
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Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI  
President

28 ta' Lulju, 2006

### ATT Nru. XII ta' l-2006

*ATT biex jirregola r-reġistrazzjoni u l-iskrizzjoni ta' l-intermedjarji fl-assigurazzjoni u l-attivitajiet ta' l-intermedjarji fl-assigurazzjoni.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:

#### TAQSIMA I

##### PRELIMINARI

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2006 dwar Titolu fil-qosor. l-Intermedjarji fl-Assigurazzjoni.

(2) It-Taqsimiet I sa IX u l-Iskeda minnufih wara t-Taqsima IX ta' dan l-Att għandhom jibdwew isehhu f'dik id-data li l-Ministru responsabbli għall-finanzi jista' b'avviż fil-Gazzetta jistabbilixxi.

**2.** (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtieġx Tifsir u għan. xort'ohra -

“aġent fl-assigurazzjoni” tfisser persuna li twettaq l-attivitajiet mnizzlin f'paragrafu 2 tat-Tielet Kolonna ta' l-Iskeda; u dwar Lloyd's, tfisser persuna hekk iskritta taht l-artikolu 13 ta' dan l-Att mahtura minn jew f'isem membru ta' Lloyd's biex tkun *coverholder* tiegħu f'Malta dwar kummerç ta' l-assigurazzjoni bl-awtorità li tidhol f'kuntratti ta' assicurazzjoni f'isem dak il-membri taht il-kundizzjonijiet ta' *binding authority agreement*;

“assiguratur” ghandha l-istess tifsira bhal dik moghtija lilha fis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att dwar il-Kummerç ta’ l-Assigurazzjoni;

“attivitajiet ta’ intermedjarji fl-assigurazzjoni” tfisser l-attivitajiet ta’ introduzzjoni, proposta jew twettiq ta’ xoghol ieħor preparatorju biex isiru kuntratti ta’ assicurazzjoni, jew dawk il-kuntratti, jew assistenza fl-amministrazzjoni u t-twettiq ta’ dawk il-kuntratti, b’mod partikolari fil-każ ta’ *claim* u tinkludi kull waħda mill-attivitajiet imnizzlin fil-paragrafi 1 sa 4 tat-Tielet Kolonna ta’ l-Iskeda u jinkludu attivitajiet ohra li jistghu jiġu ordnati;

“attivitajiet ta’ l-intermedjarji marbuta fl-assigurazzjoni”, dwar persuna rreġistrata bhala intermedjarju marbut fl-assigurazzjoni tfisser l-attivitajiet mnizzlin f’paragrafu 4 tat-Tielet Kolonna ta’ l-Iskeda u kull persuna li tmexxi attivitajiet ta’ l-intermedjarji fl-assigurazzjoni, flimkien ma’ l-attività prinċipali tiegħu, għandu jiġi kkunsidrat ukoll bhala intermedjarju marbut fl-assigurazzjoni li jaġixxi taħt r-responsabbiltà ta’ kumpannija awtorizzata għall-prodotti offruti għan-nom tagħha jekk l-assigurazzjoni tkun tikkumplimentata l-prodotti jew is-servizzi fornuti fir-rigward ta’ l-attività professjonali tiegħu, kemm jekk il-persuna tiġbor il-*premiums* jew l-ammonti intizi għall-persuna konċernata li għandha l-polza;

“awtorità kompetenti” tfisser il-korp mahtur taħt l-artikolu 3 ta’ l-Att dwar il-Kummerç ta’ l-Assigurazzjoni;

“*binding authority agreement*” tfisser ftehim bejn membru ta’ Lloyd’s jew persuna li taġixxi f’ismu u *coverholder* li bih il-*coverholder* jista’, skond il-kundizzjonijiet tal-ftehim, jaċċetta riskji jew irbit f’isem dak il-membri ta’ Lloyd’s;

“*broker* fl-assigurazzjoni” tfisser persuna li tmexxi kummerç ta’ *broking* fl-assigurazzjoni;

“ċellula” għandha l-istess tifsira bhal dik moghti lilha bl-Att dwar il-Kumpanniji;

“ċertifikat ta’ iskrizzjoni” -

(a) dwar persuna li taġixxi bhala *agent* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taħt l-artikolu 14 ta’ dan l-Att lill-persuna, li juri li dik il-persuna tkun iskritta fil-Lista ta’ l-Aġenti; u

(b) dwar persuna li taġixxi ta' *manager* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 14 ta' dan l-Att lill-persuna, li juri li dik il-persuna tkun iskritta fil-Lista tal-*Managers*; u

(ċ) dwar persuna li tmexxi kummerċ bhala *broker* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 14 ta' dan l-Att lil persuna, li juri li dik il-persuna tkun iskritta fil-Lista tal-*Brokers*; u

(d) dwar persuna reġistrata bhala intermedjarja marbuta fl-assigurazzjoni fir-Registru tal-Kumpanniji għall-Intermedjarji Marbuta fl-Assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 37 ta' dan l-Att lil persuna, li juri li dik il-persuna tkun iskritta fil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni;

“ċertifikat ta' reġistrazzjoni”-

(a) dwar persuna li taġixxi bhala *agent* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 14 ta' dan l-Att lil persuna, li juri li dik il-persuna tkun iskritta fir-Registru ta' l-Aġenti;

(b) dwar persuna li taġixxi bhala *manager* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 14 ta' dan l-Att lil persuna, li juri li dik il-persuna tkun iskritta fir-Registru tal-*Managers*; u

(ċ) dwar persuna reġistrata bhala *broker* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 14 ta' dan l-Att lil persuna, li juri li dik il-persuna tkun iskritta fir-Registru tal-*Brokers*;

“*coverholder*” tfisser persuna awtorizzata taht *binding authority agreement* biex taċċetta jew tohroġ dokumenti dwar kuntratti ta' assigurazzjoni li juru l-aċċettazzjoni ta' riskji jew irbit f'isem xi membru ta' Lloyd's li jagħti dik l-awtorità bis-sahħa ta' dak il-ftehim;

“*direttur*”, dwar kumpannija, tinkludi individwu li jokkupa l-kariga ta' direttur tal-kumpannija, b'isem ikun li jkun imsejjah, li jkollu setgħa li jmexxi sostanzjalment l-istess funzjonijiet relattivi għad-direzzjoni tal-kumpannija bhal dawk magħmula minn direttur u, relattivament għal kumpannija barranija, tinkludi membru ta' bord lokali kif ukoll aġent u l-persuna msemmija bhala

rappreżentant ta' dik il-kumpannija għall-fini tas-subinċiż (ii) ta' paragrafu (b) ta' subartikolu (1) ta' artikolu 12 ta' dan l-Att;

“fergħa” tfisser il-fond tal-kumpannija, barra mill-uffiċċju prinċipali tagħha, minn fejn jitmexxu attivitajiet ta' intermedjarji fl-assigurazzjoni;

“fondi tal-persuna stess” għandha tiftiehem skond regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-fini ta' dan l-Att biex tistabbilixxi l-ammonti u l-elementi li jikkostitwixxu l-fondi tal-persuna iskritta nnifisha;

“funzjonijiet” tinkludi r-responsabbiltajiet, setghat u dmirijiet;

“grupp” u “gruppi ta' klassijiet”, dwar kummerċ ġenerali, tfisser xi grupp ta' klassijiet jew partijiet minn klassijiet speċifikati fit-Taqsima II tat-Tielet Skeda li tinsab ma' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni;

“*holding* kwalifikattiv ta' azzjonijiet” tfisser *holding* dirett jew indirett f'kumpannija li jirrappreżenta għaxra fil-mija jew iżjed tal-kapital azzjonarju mahruġ minn dik il-kumpannija jew tal-jeddijiet ta' votazzjoni marbuta ma' dak il-kapital azzjonarju jew li jagħmilha possibbli li tkun eżerċitata influwenza sinjifikanti fl-amministrazzjoni tal-kumpannija, u “azzjonist kwalifikanti” għandha tiftiehem f'dan is-sens;

“impriza ta' l-assigurazzjoni Ewropea” tfisser impriza li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE li ma jkunx Malta, li tmexxi kummerċ ta' l-assigurazzjoni diretta fit-tifsira ta' l-artikolu 1 ta' Direttiva tal-Kunsill 73/239/KEE ta' l-24 ta' Lulju 1973 dwar il-koordinament ta' liġijiet, regolamenti u disposizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tan-negozju ta' l-assigurazzjoni diretta barra mill-assigurazzjoni tal-hajja jew ta' l-artikolu 2 tad-Direttiva 2002/83/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Novembru 2002 li tikkonċerna l-assigurazzjoni fuq il-hajja li rċeviet l-awtorizzazzjoni skond l-artikolu 6 u l-artikolu 4 ta' dawn id-Direttivi rispettivament;

“intermedjarju fl-assigurazzjoni” tfisser kull persuna naturali jew legali li, tmexxi jew tagħmel attivitajiet ta' intermedjarji fl-assigurazzjoni, u tinkludi persuna li tipprovdi servizzi anċillari għal attivitajiet ohra ta' kummerċ fl-assigurazzjoni kif jista' jiġi ordnat;

“intermedjarju marbut fl-assigurazzjoni” tfisser persuna li tmexxi attivitajiet ta' l-intermedjarji fl-assigurazzjoni marbuta;



“iskritt” -

(a) dwar persuna li taġixxi bhala aġent fl-assigurazzjoni, tfisser iskritt fil-Lista ta’ l-Aġenti taht l-artikolu 13 ta’ dan l-Att;

(b) dwar persuna li taġixxi bhala *manager* fl-assigurazzjoni, tfisser iskritt fil-Lista tal-*Managers* taht l-artikolu 13 ta’ dan l-Att;

(c) dwar persuna li tmexxi kummerç bhala *broker* fl-assigurazzjoni, tfisser iskritt fil-Lista tal-*Brokers* taht l-artikolu 13; u

(d) dwar persuna li tmexxi kummerç bhala intermedjarju marbut fl-assigurazzjoni, tfisser iskritt fil-Lista ta’ l-Intermedjarja Marbuta fl-Assigurazzjoni taht l-artikolu 37 ta’ dan l-Att,

u, f’kull każ, “iskrizzjoni” ghandha tiftiehem f’dan is-sens;

“klassi”-

(a) dwar kummerç fit-tul, tfisser xi wahda mill-klassijiet speċifikati fit-Tieni Skeda li tinsab ma’ l-Att dwar il-Kummerç ta’ l-Assigurazzjoni; u

(b) dwar kummerç ġenerali, tfisser xi wahda mill-klassijiet speċifikati fit-Taqsima I tat-Tielet Skeda li tinsab ma’ dak l-Att;

“kontroll”, dwar korp ġuridiku, tfisser is-setgħa biex jiġu stabbiliti l-*policies* finanzjarji u operattivi tal-korp ġuridiku;

“kontrollur”, dwar korp ġuridiku, hija persuna li, wahedha jew flimkien ma’ ohrajn, teżerçita kontroll relattivament għall-korp ġuridiku;

“korp ġuridiku” tfisser kull entità li ghandha l-personalità legali distinta minn dik tal-membri tagħha;

“kummerç ta’ *broking* fl-assigurazzjoni”, dwar *broker* fl-assigurazzjoni reġistrat jew iskrit, tfisser l-attivitajiet imnizzlin fil-paragrafu 1 tat-Tielet Kolonna ta’ l-Iskeda;

“kummerċ ta’ l-assigurazzjoni” għandha l-istess tifsir kif mogħti lilha bis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni;

“kumpannija” tinkludi kumpannija lokali u kumpannija barranija;

“kumpannija awtorizzata” tfisser kumpannija li hi awtorizzata, jew persuna li titqies li tkun awtorizzata, taħt l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, biex tmexxi kummerċ ta’ l-assigurazzjoni, u tinkludi kumpannija iskritta taħt l-imsemmi Att biex taġixxi bħala aġent fl-assigurazzjoni ta’ dik il-kumpannija, kif ukoll impriża ta’ l-assigurazzjoni Ewropea li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li tistabbilixxi fergħa jew tipprovdi servizzi f’Malta fl-eżerċizzju ta’ dritt Ewropew;

“kumpannija barranija” tfisser kumpannija jew soċjetà in akkomandita, jew korp ġuridiku simili jew ekwivalenti għaliha, li l-kapital tagħha jkun maqsum f’azzjonijiet, reġistrata, inkorporata jew kostitwita barra minn Malta taħt il-liġijiet ta’ xi pajjiż, kemm-il darba dik il-kumpannija jew is-soċjetà in akkomandita tkun harset id-disposizzjonijiet ta’ xi liġi li minn żmien għal żmien tkun issehh f’Malta u li tkun tirreferi għaliha:

Iżda, sakemm mhux speċifikat xort’ohra, it-terminu “kumpannija barranija” ma’ tinkludix intermedjarju fl-assigurazzjoni Ewropew reġistrat taħt l-artikolu 3 tad-Direttiva 2002/92/KE tal-Parlament u tal-Kunsill Ewropew tad-9 ta’ Diċembru 2002 dwar il-medjazzjoni fl-assigurazzjoni;

“kumpannija ċellulari” għandha l-istess tifsira bħal dik mogħti lilha bl-Att dwar il-Kumpanniji;

“kumpannija lokali” tfisser kumpannija b’responsabbiltà limitata, iffurmata u reġistrata skond l-Att dwar il-Kumpanniji, u tinkludi, bla hsara għas-subartikolu (2), soċjetà in akkomandita, li l-kapital tagħha jkun maqsum f’azzjonijiet, iffurmata u reġistrata skond l-imsemmi Att;

“kundizzjonijiet” tinkludi obbligazzjonijiet u restrizzjonijiet;

“kuntratt ta’ assigurazzjoni” u “kuntratt” għandhom l-istess tifsiriet kif mogħti lilhom bis-subartikolu (1) ta’ artikolu 2 ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni;

“Lista ta’ l-Aġenti” tfisser il-lista ta’ persuni li jaġixxu bhala aġenti fl-assigurazzjoni stabbilita u mużmuma taht l-artikolu 9 ta’ dan l-Att;

“Lista tal-*Brokers*” tfisser il-lista ta’ persuni li jmexxu kummerċ bhala *brokers* fl-assigurazzjoni stabbilita u miżmuma taht l-artikolu 9 ta’ dan l-Att;

“Lista ta’ l-Intermedjarji Marbuta fl-Assigurazzjoni” tfisser il-lista ta’ l-intermedjarji marbuta fl-assigurazzjoni stabbilita u miżmuma skond is-subartikolu (1) ta’ l-artikolu 36 ta’ dan l-Att;

“Lista tal-*Managers*” tfisser il-lista ta’ persuni li jaġixxu bhala *managers* fl-assigurazzjoni stabbilita u miżmuma taht l-artikolu 9 ta’ dan l-Att;

“*manager* fl-assigurazzjoni” tfisser persuna li tmexxi l-attivitajiet imniżżlin f’paragrafu 3 tat-Tielet Kolonna ta’ l-Iskeda;

“Ministru” tfisser il-Ministru responsabbli għall-finanzi;

“*money laundering*” għandha l-istess tifsira bhal dik mogħtija lilha mill-Att kontra *Money Laundering*;

Kap. 373.

“ordnat” tfisser ordnat b’regolamenti magħmulin taht dan l-Att;

“rabta” u “pajjiż tar-rabta” għandhom l-istess tifsiriet kif mogħti lilhom fis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni;

“rabtiet internazzjonali ta’ Malta” għandha l-istess tifsira bhal dik mogħti lilha fis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni ;

“rapprezentant” għandha tinftiehem skond l-artikolu 12 ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni ;

“reġistrat” -

(a) dwar persuna reġistrata bhala aġent fl-assigurazzjoni taht l-artikolu 13, tfisser reġistrat fir-Registru ta’ l-Aġenti;

(b) dwar persuna reġistrata bhala *manager* fl-assigurazzjoni taht l-artikolu 13, tfisser reġistrat fir-Registru tal-*Managers*;

(ċ) dwar persuna reġistrata bhala *broker* fl-assigurazzjoni taht l-artikolu 13, tfisser reġistrat fir-Reġistru tal-*Brokers*; u

(d) dwar persuna reġistrata bhala intermedjarju marbut fl-assigurazzjoni taht l-artikolu 37 ta' dan l-Att, tfisser reġistrat fir-Reġistru ta' l-Intermedjarji Marbuta fl-Assigurazzjoni ta' kumpannija wahda jew iżjed,

u, f'kull każ, “reġistrazzjoni” ghandha tiftiehem f'dan is-sens;

“Reġistru ta' l-Aġenti” tfisser ir-reġistru ta' l-aġenti fl-assigurazzjoni, stabbilit u miżmum taht l-artikolu 7 ta' dan l-Att;

“Reġistru tal-*Brokers*” tfisser ir-reġistru tal-*brokers* fl-assigurazzjoni stabbilit u miżmum taht l-artikolu 7 ta' dan l-Att;

“Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni” dwar kumpannija awtorizzata tfisser ir-reġistru ta' kumpanniji għal intermedjarji marbuta fl-assigurazzjoni stabbilit u miżmum skond is-subartikolu (1) ta' artikolu 36 ta' dan l-Att;

“Reġistru tal-*Managers*” tfisser ir-reġistru tal-*managers* fl-assigurazzjoni stabbilit u miżmum taht l-artikolu 7 ta' dan l-Att;

“regola dwar l-intermedjarji fl-assigurazzjoni” tfisser regola dwar l-attivitajiet ta' intermedjarji fl-assigurazzjoni li tkun torbot lill-intermedjarji fl-assigurazzjoni u lil ohrajn kif jista' jigi msemmi fiha, mahruġa mill-awtorità kompetenti bis-sahha tas-subartikolu (2) ta' l-artikolu 4 ta' dan l-Att;

“reklam”, dwar attivitajiet ta' intermedjarji fl-assigurazzjoni, tfisser kull xorta ta' reklamar, sew bil-fomm jew bil-miktub, u, bla hsara għall-ġeneralità ta' dak qabel imsemmi, tinkludi reklamar f'pubblikazzjoni, il-wiri ta' avvizi, tabelli, tikketti jew kartelluni, bil-mezz ta' ittri, ċirkolarijiet, prospetti, katalgi, listi tal-prezzijiet jew dokumenti ohra, bil-wiri ta' stampi jew filmati fotografici jew ċinematografici, bil-mezz ta' xandir bis-smigh jew bit-televizjoni, bit-tqassim ta' reġistrazzjonijiet jew b'kull mod ieħor, u riferenzi għall-hruġ ta' reklam għandhom jiftiehem f'dan is-sens;

“riskju sitwat f'Malta” ghandha l-istess tifsir kif mogħti lilha fis-subartikolu (1) ta' l-artikolu 2 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni;

“sena finanzjarja” ghandha tiftiehem skond is-subartikolu (4) ta’ l-artikolu 27 ta’ dan l-Att;

“Skeda” tfisser l-Iskeda li tinsab ma’ dan l-Att;

“Stat Membru” tfisser Stat Membru tal-Komunitajiet Ewropej;

“Stat ŻEE” tfisser Stat li jkun parti kontraenti fil-ftehim fuq iż-Żona Ekonomika ffirmata f’Oporto fit-2 ta’ Mejju, 1992 kif emendat bil-Protokol iffirmit fi Brussel fis-17 ta’ Marzu 1993 u kif emendat minn żmien għal żmien;

“Tribunal” tfisser it-Tribunal għal Servizzi Finanzjarji imsemmi fl-artikolu 21 ta’ l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta’ Malta; Kap. 330.

“uditor approvat” u “uditor” ghandhom it-tifsir mogħti lilhom minn subartikolu (10) ta’ l-artikolu 28 ta’ dan l-Att;

“uffiċjal”, dwar kumpannija, tinkludi direttur, soċju, *manager*, jew segretarju tal-kumpannija jew xi persuna li effettivament taġixxi f’kariga bhal dik sew jekk mahtura formalment u sew jekk ma tkunx;

(2) L-għan ta’ dan l-Att huwa, in parti, biex jimplimenta d-disposizzjonijiet tad-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta’ Diċembru ta’ l-2002 dwar il-medjazzjoni fl-assigurazzjoni, u kull Direttiva oħra tal-Parlament Ewropew u tal-Kunsill li tista’ tkun maħruġa minn żmien għal żmien fuq ir-regolamentazzjoni ta’ intermedjarji fl-assigurazzjoni li ghandha tiġi interpretata u applikata bl-istess mod. Għan.

(3) Id-disposizzjonijiet ta’ dan l-Att ghandhom japplikaw għal soċjetà in akkomandita jew għal korp ġuridiku simili jew ekwivalenti bla hsara għal dawk il-modifikazzjonijiet li l-awtorità kompetenti tista’, minn żmien għal żmien, tagħmel f’xi disposizzjoni tiegħu, liema modifikazzjonijiet ma ghandhomx materjalment inaqqsu mill-għan prinċipali tad-disposizzjoni hekk modifikata.

(4) F’dan l-Att u fir-regoli magħmulin bis-sahha tiegħu, jekk ikun hemm xi konflitt bejn it-test Inġliż u t-test Malti, għandu jipprevali t-test Inġliż.

## TAQSIMA II

### SETGHAT REGOLATORJI

Setghat tal-  
Ministru.  
Kap. 403.

**3.** (1) L-awtorità kompetenti mahtura taht l-artikolu 3 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, ghandha taqdi l-funzjonijiet ta' l-awtorità kompetenti taht dan l-Att u partikolarment, tiżgura t-tharis tad-disposizzjonijiet ta' dan l-Att.

(2) Il-Ministru jista', wara konsultazzjoni ma' l-awtorità kompetenti, jaghmel ir-regolamenti li jistghu jkunu mehtieġa sabiex titwettaq kull waħda mid-disposizzjonijiet ta' dan l-Att, u bla hsara għall-ġeneralità ta' dak hawn qabel imsemmi, il-Ministru jista', b'dawk ir-regolamenti, b'mod partikolari, jipprovdi għal xi haġa jew kull haġa minn dawn li ġejjin-

(a) l-implimentazzjoni tad-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Dicembru 2002 dwar il-medjazzjoni ta' l-assigurazzjoni;

(b) l-implimentazzjoni ta' xi htieġa jew disposizzjoni kif jista' jkun mehtieġ skond Direttiva, Regolament jew Deċiżjoni ta' l-Unjoni Ewropea jew kull miżura oħra simili għall-finijiet ta' dan l-Att;

(ċ) biex jemenda jew jirrevoka l-Iskeda;

(d) il-hlas minn xi persuna, korp jew ċellula mahluqa minn kumpannija ċellulari, skond il-każ, ta' kull dritt, ammont jew hlas ieħor pagabbli lill-awtorità kompetenti dwar kull haġa provdut dwarha, b'dan l-Att jew tahtu u kull regolament magħmul taht dan l-artikolu;

(e) ir-registrazzjoni jew l-iskrizzjoni ta' persuni, barra minn persuni reġistrati jew iskritti bis-saħħa ta' dan l-Att, li jmexxu attivitajiet ta' intermedjarji fl-assigurazzjoni jew li jipprovdu għal servizzi anċillari għall-kummerċ ta' l-assigurazzjoni kif jista' jiġi ordnat;

(f) kull haġa li ghandha x'taqsam jew li hi konnessa ma' xi disposizzjoni li tinsab fl-Iskeda;

(g) kull haġa li tista' jew li ghandha tkun ordnata taht xi disposizzjoni ta' dan l-Att;

(h) il-penalitajiet amministrattivi li jistghu jiġu mposti u miġbura mill-awtorità kompetenti dwar infrazzjonijiet li jistghu jiġu ordnati mingħajr ma jinstemgħu quddiem qorti; penali amministrattiva tkun dovuta lil-awtorità kompetenti bhala dejn ċivili:

Iżda l-penali amministrattiva ma tistax tkun akbar minn penali finanzjarja ta' erbgħin elf lira dwar kull infrazzjoni u, meta l-infrazzjoni tkompli, penali ohra ta' mhux iżjed minn hamsin lira għal kull jum li matulu l-infrazzjoni tkompli;

(i) il-penalitajiet jew pieni ohra li persuni li jiksru jew li jonqsu li jharsu xi disposizzjoni ta' xi regolament magħmul skond dan l-Att jistgħu jehlu, liema penalitajiet ma jkunux inqas minn mitt lira u mhux iżjed minn erbgħin elf lira, dwar kull reat u dwar reat kontinwat penali ohra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat;

(j) kull haġa inċidentali għal jew konnessa ma' xi haġa hawn qabel imsemmija;

(k) kull haġa relatata mat-twaqqif, koordinazzjoni, amalgamazżjoni jew xort' ohra ta' l-iskemi ta' kumpens.

(3) Il-Ministru jista' wara konsultazzjoni ma' l-awtorità kompetenti, jagħmel regolamenti biex jeżenta lil xi persuna mid-disposizzjonijiet kollha jew uħud mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmula bis-saħħa tiegħu, bla hsara għal dwak il-kondizzjonijiet jew htigiet inkluża il-htieġa ta' forom ohra ta' proċeduri ta' reġistrazzjoni jew iskrizzjoni u notifika skond ma' jista' jiġi ordnat.

(4) Il-Ministru jista' wkoll b'regolamenti taħt dan l-artikolu, wara konsultazzjoni ma' l-awtorità kompetenti, jestendi u jagħmel applikabbli kull wahda mid-disposizzjonijiet ta' dan l-Att għal xi attività ta' intermedjarju fl-assigurazzjoni li tista' tiġi ordnata li fil-fehma tiegħu għandha, fl-interess pubbliku, tkun regolata b'dawk id-disposizzjonijiet.

(5) Regolamenti magħmula taħt dan l-artikolu jistgħu jagħmlu dawk l-eżenzjonijiet, kondizzjonijiet jew modifiki kif jista' jiġi speċifikat fihom dwar każijiet, ċirkostanzi jew għanijiet differenti u jistgħu jagħtu lill-awtorità kompetenti dik is-setgħa għal adattament tar-regolamenti kif jista' jiġi speċifikat fihom.

(6) Fil-każ ta' dubju dwar jekk attività tkunx tikkostitwixxi t-tmexxija ta' attivitajiet ta' intermedjarji fl-assigurazzjoni, jew jekk dawk l-attivitajiet ta' intermedjarji fl-assigurazzjoni jkunu jew ma jkunx

qeghdin jitmexxew f'Malta jew minn Malta, il-kaz ikun konkluzivament deċiż mill-awtorità kompetenti.

(7) L-eżerċizzju ta' poteri mogħtija taħt dan l-artikolu għandhom ikunu bla ħsara għal kull obligazzjoni jew restrizzjoni li toriġina mir-rabtiet internazzjonali ta' Malta.

(8) Regolamenti magħmulin taħt dan l-Att u kull emenda jew revoka ta' dawk ir-regolamenti, jistgħu jkunu pubblikati bl-ilsien Inġliż biss.

Setgħat u dmirijiet ta' l-awtorità kompetenti.

**4.** (1) Jkun id-dmir ta' l-awtorità kompetenti li taqdi l-funzjonijiet mogħtija lilha b'dan l-Att jew taħtu u li tiżgura li persuni, kumpanniji jew intermedjarji ta' l-assigurazzjoni reġistrati jew iskritti skond dan l-Att u regolamenti magħmulin taħtu jkunu jħarsu d-disposizzjonijiet ta' dan l-Att, regolamenti magħmulin taħtu, ir-regoli dwar intermedjarji fl-assigurazzjoni magħmulin mill-awtorità kompetenti bis-saħħa ta' dan l-Att, u tal-kundizzjonijiet speċifikati f'ċertifikati ta' reġistrazzjoni jew iskrizzjoni.

(2) L-awtorità kompetenti tista' tagħmel regoli dwar intermedjarji fl-assigurazzjoni kif ikun meħtieġ sabiex jingħata effett lil kull wahda mid-disposizzjonijiet ta' dan l-Att u tar-regolamenti kollha magħmulin bis-saħħa tiegħu. L-awtorità kompetenti tista' temenda jew tirrevoka dawk ir-regoli dwar intermedjarji fl-assigurazzjoni.

(3) Regoli dwar intermedjarji fl-assigurazzjoni u kull emenda għalihom jew revoka tagħhom, għandhom ikunu komunikati uffiċjalment lill-persuni jew kumpanniji konċernati u l-pubbliku jkun jista' jarahom fl-uffiċċji ta' l-awtorità kompetenti f'kull hin matul il-hinijiet normali tax-xogħol ta' l-awtorità kompetenti.

(4) Ir-regoli dwar intermedjarji fl-assigurazzjoni magħmulin mill-awtorità kompetenti bis-saħħa ta' dan l-Att, jistgħu jipprovdu li jkunu japplikaw htigiet regolatorji differenti għal kategoriji differenti ta' intermedjarji fl-assigurazzjoni; u bla ħsara għar-regoli dwar intermedjarji fl-assigurazzjoni li jkunu meħtieġa jsiru taħt dan l-Att u għall-ġeneralità ta' dak hawn qabel imsemmi, l-awtorità kompetenti tista', b'dawk ir-regoli dwar intermedjarji ta' l-assigurazzjoni, b'mod partikolari -

(a) tistabbilixxi x'ikun jikkostitwixxi dak li hu xieraq u idoneu dwar intermedjarji fl-assigurazzjoni;

(b) tistabbilixxi, dwar intermedjarji fl-assigurazzjoni, il-kriterji ta' direzzjoni tajba u prudenti;



(ċ) tistabbilixxi t-tagħrif li intermedjarji fl-assigurazzjoni għandhom jagħtu lil persuni li jkunu qegħdin jitolbu jew jagħmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(d) tistabbilixxi l-kodiċijiet ta' mgieba li jistgħu jirregolaw kull aspekk ta' negozju bejn l-intermedjarji fl-assigurazzjoni u l-kumpanniji fl-assigurazzjoni jew bejn dawg l-intermedjarji u l-persuni li jitolbu jew jagħmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(e) tistabbilixxi, dwar kummerċ ta' attivitajiet intermedjarji fl-assigurazzjoni, il-hruġ ta' reklami, u l-egħmil ta' attivitajiet oħra ta' promozzjoni.

### TAQSIMA III

#### REGISTRAZZJONI JEW ISKRIZZJONI GĦAT-TMEXXIJA TA' KUMMERĊ BĦALA AĠENTI FL-ASSIGURAZZJONI, MANAGERS FL-ASSIGURAZZJONI U BROKERS FL-ASSIGURAZZJONI

5. Din it-Taqsima ta' l-Att tapplika għall-persuni li jaġixxu ta' aġenti fl-assigurazzjoni, *managers* fl-assigurazzjoni u persuni li jmexxu kummerċ bħala *brokers* fl-assigurazzjoni, hawn iżjed il-quddiem magħruffin bħala "l-intermedjarju".

Applikazzjoni ta' din it-Taqsima għall-intermedjarji fl-assigurazzjoni speċifiċi.

6. (1) Bla hsara għas-subartikolu (3) ta' dan l-artikolu, l-ebda persuna ma tista taġixxi bħala intermedjarju, jew tmexxi jew tipprova tmexxi, f'Malta jew minn Malta, attivitajiet ta' intermedjarji fl-assigurazzjoni kemm il-darba dik il-persuna ma tkunx registrata jew iskritta skond l-artikolu 13 ta' dan l-Att.

Registrazzjoni jew iskrizzjoni ta' intermedjarji fl-assigurazzjoni.

(2) L-awtorità kompetenti m'għandhiex tagħti registrazzjoni jew iskrizzjoni taħt dan l-artikolu lil persuna u lanqas m'għandha l-awtorità kompetenti tippermetti li dik il-persuna tiġi rreġistrata jew iskritta taħt jew li tibqa' hekk rreġistrata jew iskritta, sakemm ma tkunx sodisfatta li dik il-persuna tikkonforma u jissodisfa l-htigiet kollha stabbiliti f'din it-Taqsima ta' l-Att.

(3) Dan l-artikolu m'għandux japplika għal persuna, li hija rreġistrata skond id-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Diċembru ta' l-2002 dwar il-medjazzjoni ta' l-assigurazzjoni fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta.

7. L-awtorità kompetenti għandha tistabbilixxi u żzomm registru ta' persuni li jmexxu kummerċ ta' aġenti fl-assigurazzjoni jew *managers*

Registru ta' intermedjarji fl-assigurazzjoni.

fl-assigurazzjoni u *brokers* fl-assigurazzjoni, f'dan l-Att separatament imsejja bhala "ir-Registru ta' l-Aġenti", "ir-Registru tal-*Managers*" jew "ir-Registru tal-*Brokers*", li jkun fih dawk il-partikolaritajiet li l-awtorità kompetenti tista', minn żmien ghal żmien, b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabbilixxi, tal-persuni kollha li taht dan l-Att għandhom il jedd li jkunu reġistrati fih u li japplikaw bil-mod stabbilit f'dik ir-regola biex ikunu hekk reġistrati.

Kwalifiki għar-reġistrazzjoni.

**8.** (1) Persuna għandha jedd li tkun reġistrata fir- "Registru ta' l-Aġenti", "ir-Registru tal-*Managers*" jew fir-"Registru tal-*Brokers*" jekk tissodisfa lill-awtorità kompetenti li -

(a) tkun individwu;

(b) tkun persuna xierqa u idonea, li tkun hekk reġistrata u li tiżgura d-direzzjoni tajba u prudenti tal-kumpannija;

(ċ) ikollha l-kwalifiki u tkun tissodisfa jew thares il-htigiet stabbiliti b'regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Persuna ma jkollhiex jedd li tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni bis-sahha tar-reġistrazzjoni tagħha taht dan l-artikolu kemm-il darba ma tkunx direttur jew impjegat ta' kumpannija li tkun iskritta taht l-artikolu 13 ta' dan l-Att.

Lista ta' persuni li jmexxu kummerċ ta' intermedjarji fl-assigurazzjoni.

**9.** L-awtorità kompetenti għandha tistabbilixxi u żżomm registru ta' persuni li jaġixxu ta' aġenti fl-assigurazzjoni jew *managers* fl-assigurazzjoni u jmexxu kummerċ ta' *brokers* fl-assigurazzjoni, f'dan l-Att imsejja separatament bhala "ir-Registru ta' l-Aġenti", "ir-Registru tal-*Managers*" jew "ir-Registru tal-*Brokers*", li jkun fih dawk il-partikolaritajiet dwar il-persuni kollha li taht dan l-Att ikollhom il jedd li jkunu iskritti fih u li japplikaw bil-mod stabbilit minn żmien għal żmien mill-awtorità kompetenti f'dik ir-regola biex ikunu hekk iskritti.

Htigiet ġenerali dwar iskrizzjoni.

**10.** (1) Bla hsara għal paragrafu (b) ta' dan is-subartikolu, l-intermedjarju għandu jedd li jkun iskritt fil-"Lista ta' l-Aġenti", "il-Lista tal-*Managers*" jew fil-"Lista tal-*Brokers*" jekk ikun jissodisfa lill-awtorità kompetenti li:

(a) fil-każ li l-applikant tkun kumpannija:

(i) l-għaniġiet tal-kumpannija jkunu limitati għall-operazzjonijiet li johorġu direttament mill-kummerċ mnizzla f'paragrafu (1), (2) u (3) tat-Tielet Kolonna ta' l-Iskeda, kif

applikabbli u ghal hwejjeg jew funzjonijiet konnessi mieghu jew ancillari ghalih, bl-esklużjoni ta' kull kummerc ta' negozju iehor, barra minn kummerc stabbilit b'regola dwar intermedjarji fl-assigurazzjoni maghmula ghall-finijiet ta' dan l-artikolu;

(ii) l-applikant jikxef ghas-sodisfazzjon ta' l-awtorità kompetenti dak it-taghrif li l-awtorità kompetenti tkun talbet minn ghandu dwar il-persuni li ma' l-iskrizzjoni jkollhom xi interess proprjetarju, finanzjarju jew xi interess iehor, f'dik, jew in konnessjoni ma', l-applikant;

(iii) l-azzjonisti kwalifikanti kollha, il-kontrulluri u l-persuni kollha li effettivament jidderigu l-funzjonijiet jew imexxu l-attivitajiet ta' l-applikanti huma xierqa u idonei biex jizguraw id-direzzjoni tajba u prudenti taghha;

(iv) il-fondi tal-persuna stess, sew jekk f'Liri Maltin jew f'munita ohra accettabbli ghall-awtorità kompetenti huma, f'kull hin mhux inqas minn dak l-ammont xieraq ghax-xorta ta' kummerc li ser jitmexxa minnu, skond kif jista' jigi stabbilit b'regola dwar l-intermedjarji fl-assigurazzjoni maghmula ghall-finijiet ta' dan l-Att, u dawk il-fondi tieghu stess huma f'kull hin hielsa minn kull irbit;

(v) l-applikant ikollu fiz-żminijiet kollha favur tieghu polza ta' assicurazzjoni ta' indennizz professjonali accettabbli mill-awtorità kompetenti, li tindennizza lilu, jew lil kull persuna impjegata minnu, jew li xort'ohra tagixxi ghan-nom tieghu, f'dak l-ammont, b'dak il-mod u dwar dawk il-hwejjeg li l-awtorità kompetenti tista' tistabilixxi minn żmien ghal żmien;

(vi) l-applikant jissottometti ghas-sodisfazzjon ta' l-awtorità kompetenti skema ta' operazzjonijiet xierqa ghall-applikazzjoni li ghandha tinkludi partikolaritajiet jew provi kif jista' jigi stabbilit b'regola dwar intermedjarji fl-assigurazzjoni;

(b) fil-każ li l-applikant ikun individwu:

(i) l-incizi (i) u (iii) ta' paragrafu (a) ta' subartikolu (1) ta' dan l-artikolu ma japplikax; u

(ii) dan ghandu jedd li jkun registrat fir- "Registru ta' l-Aġenti", "ir-Registru tal-*Managers*" jew fir-"Registru tal-*Brokers*" jekk jissodisfa lill-awtorità kompetenti li:

(aa) tkun persuna xierqa u idonea, li tkun hekk reġistrata u li tiżgura d-direzzjoni tajba u prudenti tal-kummerċ;

(bb) ikollu l-kwalifiki u jissodisfa jew iħares il-htigiet stabbiliti b'regola dwar l-intermedjarji fl-assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu;

(cc) l-ghanijiet tieghu jkunu limitati għall-attivitajiet li johorġu direttament mill-kummerċ ta' l-intermedjarji fl-assigurazzjoni u għal hwejjeġ jew funzjonijiet konnessi mieghu jew ancillari għalih, bl-esklużjoni ta' kull kummerċ ta' negozju iehor, barra minn kummerċ stabbilit b'regola dwar l-intermedjarji, fl-assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu.

(2) Meta jkunu jeżistu rabtiet mill-qrib bejn l-intermedjarju u xi persuna ohra, l-awtorità kompetenti għandha:

(a) tagħti iskrizzjoni biss jekk tikkunsidra li tali rabtiet mill-qrib ma jfixkluhiex milli teżercita effettivament il-funzjonijiet ta' sorveljanza tagħha; u

(b) tirrifjuta li tagħti dik l-iskrizzjoni jekk tikkunsidra li l-ligijiet, ir-regolamenti jew disposizzjonijiet amministrattivi ta' xi pajjiż barra minn Malta li jirregolaw li xi persuna li magħha l-intermedjarju jkollu rabtiet mill-qrib, jew l-infurzar tagħhom, ifixkulha milli teżercita effettivament il-funzjonijiet ta' sorveljanza tagħha.

(3) L-awtorità kompetenti tista', minn żmien għal żmien, permezz ta' regoli dwar l-intermedjarji fl-assigurazzjoni mahruġa taħt dan l-Att tfisser iċ-ċirkostanzi fejn ikunu meqjusin ir-rabtiet mill-qrib li jeżistu bejn l-intermedjarju u xi persuna ohra.

(4) Fejn l-applikazzjoni tkun għall-iskrizzjoni biex intermedjarji fl-assigurazzjoni jaġixxu bhala aġent ta' l-assigurazzjoni jew *manager* fl-assigurazzjoni, l-applikant huwa mehtieġ li jipproduci provi għas-sodisfazzjon ta' l-awtorità kompetenti li jkollu hatra bil-miktub iffirmata minn ufficjal anzjan ta' l-assigurator jew ta' *broker* fl-assigurazzjoni, skond il-każ, li l-applikant ikun qed jitlob biex jaġixxi għaliha fejn l-applikant ikun nominat biex jaġixxi f'isem u għan-nom tal-kumpanija, jew unikament għan-nom tal-kumpanija, fil-kariga speċifikata fil-hatra u dwar hwejjeġ u taħt kundizzjonijiet speċifikati f'dik il-hatra:

Iżda, meta applikazzjoni tkun għall-iskrizzjoni sabiex jaġixxi ta' *manager* fl-assigurazzjoni, il-hatra msemmija f'dan il-paragrafu ma tikkostitwix kundizzjoni bil-quddiem għal iskrizzjoni kemm il-darba il-*manager* fl-assigurazzjoni iskritt ma jaġixxi għal assiguratatur jew *broker* fl-assigurazzjoni, skond il-każ, sakemm ma jipproduċix prova għas-sodisfazzjon ta' l-awtorità kompetenti li jkollha hatra bil-miktub mill-kumpannija konċernata sabiex jaġixxi għan-nom tagħha.

**11.** (1) F'każ li l-applikant ikun kumpannija lokali, hija għandha dritt li tkun iskritta:

Htiġiet speċifiċi għal iskrizzjoni fil-każ ta' kumpannija lokali.

(a) fil-Lista ta' l-Aġenti jekk, b'żieda mal-htigiet ta' l-artikolu 10 ta' dan l-Att, l-awtorità kompetenti tkun sodisfatta li wiehed jew iżjed mid-diretturi tal-kumpannija jkunu reġistrati fir-Reġistru ta' l-Aġenti;

(b) fil-Lista tal-*Managers* jekk, b'żieda mal-htigiet ta' l-artikolu 10 ta' dan l-Att, l-awtorità kompetenti tkun sodisfatta li wiehed jew iżjed mid-diretturi tal-kumpannija jkunu reġistrati fir-Reġistru tal-*Managers*;

(ċ) fil-Lista tal-*Brokers* jekk, b'żieda mal-htigiet ta' l-artikolu 10 ta' dan l-Att, l-awtorità kompetenti tkun sodisfatta li wiehed jew iżjed mid-diretturi tal-kumpannija jkunu reġistrati fir-Reġistru tal-*Brokers*,

u l-kummerċ bħala intermedjarji fl-assigurazzjoni jkun qed jitmexxa taht id-direzzjoni ta' persuna reġistrata.

(2) Kull persuna iskritta taht artikolu 13 ta' dan l-Att għandha tapplika lill-awtorità kompetenti bil-miktub qabel tiftah fergħa jew twaqqaf jew takkwista sussidjarja f'Malta.

(3) L-awtorità kompetenti tista' tippermetti persuna iskritta kif imsemmi hawn qabel tiftah fergħa f'Malta jekk tkun sodisfatta li l-kummerċ bħala intermedjarji fl-assigurazzjoni mmexxi minnha mill-fergħa jkun qed isir minn persuna reġistrata.

(4) L-ebda persuna iskritta taht din it-taqsimha ta' dan l-Att ma tista' tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni jew tistabilixxi jew takkwista sussidjarja f'xi pajjiż barra minn Malta, hlief bil-kunsens bil-miktub ta' l-awtorità kompetenti.

**12.** (1) Fil-każ li l-applikant ikun kumpannija lokali, hija għandha dritt li tkun iskritta fil-Lista ta' l-Aġenti, fil-Lista ta' l-*Managers* jew fil-Lista ta' l-*Brokers* jekk, flimkien mal-htigiet mnizzlin f'artikolu 10 ta' dan l-Att, l-awtorità kompetenti tkun sodisfatta li -

Htiġiet speċifiċi għall-iskrizzjoni fil-każ ta' kumpannija barranin.

(a) il-kumpannija tkun registrata jew permessa fil-pajjiż fejn l-uffiċċju prinċipali tagħha jkun qiegħed sitwat biex tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni;

(b) il-kumpannija jkollha f'kull waqt f'Malta-

(i) fergħa; u

(ii) rappreżentant:

Iżda, kumpannija li twettaq kummerċ bħala *broker* fl-assigurazzjoni ristrett għal kuntratti ta' assicurazzjoni li jirrigwardaw riskji sitwati barra minn Malta tista', jew minflok jew b'żieda mal-ftuh ta' fergħa f'Malta, tahtar *manager* fl-assigurazzjoni iskrutt taht l-Att, biex imexxi tali kummerċ; u sakemm dak il-*manager* fl-assigurazzjoni jibqa jżomm dik il-hatra, il-kummerċ ta' *broking* ta' l-assigurazzjoni għandu jkun taht it-tmexxija ta' *broker* fl-assigurazzjoni registrat.

(2) Dwar fergħa ta' kumpannija barranija li tkun qed tmexxi xi attivitajiet ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu ordnati, l-attivitajiet ta' intermedjarji fl-assigurazzjoni għandhom jiġu mmexxija min dik il-fergħa minn individwu li jkun jissodisfa dawn il-htigiet li ġejjin -

(a) fil-każ ta' kumpannija li tmexxi attivitajiet ta' kummerċ fl-assigurazzjoni -

(i) l-individwu ikun registrat fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers*;

(ii) l-individwu ikun direttur tal-kumpannija jew ikollu l-awtorità jaġixxi għan-nom ta' dik il-kumpannija u l-attivitajiet ta' intermedjarji fl-assigurazzjoni jitmexxew taht id-direzzjoni tiegħu;

(iii) l-individwu ma jkunx uditur approvat, jew soċju jew impjegat ta' uditur approvat tal-kumpannija;

(b) fil-każ ta' kumpannija li tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu ordnati, id-disposizzjonijiet li jkunu ordnati.

Għoti ta' registrazzjoni jew iskrizzjoni ta' intermedjarji ta' l-assigurazzjoni mill-awtorità kompetenti.

**13.** (1) Applikazzjoni għar-registrazzjoni jew l-iskrizzjoni taht dan l-artikolu għandha ssir f'dik il-forma u b'dak il-mod li l-awtorità kompetenti tista' tistabilixxi minn żmien għall-żmien.

(2) L-awtorità kompetenti jkollha s-setgħa li teħtiegħ lil applikant jipprovdni dak it-tagħrif li jidhriha meħtiegħ sabiex tiddeċiedi dwar applikazzjoni għal reġistrazzjoni jew iskrizzjoni taħt dan l-artikolu.

(3) L-awtorità kompetenti tista' tagħti reġistrazzjoni jew iskrizzjoni taħt dan l-artikolu biss jekk tkun sodisfatta, fuq il-bażi tat-tagħrif meħtiegħ li jingħata taħt dan l-Att u kull tagħrif li hija tircievi, li għandha tingħata r-reġistrazzjoni jew l-iskrizzjoni.

(4) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, l-awtorità kompetenti tista' tissugġetta reġistrazzjoni jew iskrizzjoni magħmula taħt dan l-artikolu għal dawk il-kundizzjonijiet li minn żmien għal żmien jidhriha li jkunu xierqa li timponi.

(5) L-awtorità kompetenti għandha tiddeċiedi applikazzjoni għal reġistrazzjoni jew iskrizzjoni taħt dan l-artikolu fi żmien tliet xhur minn meta tircievi t-tagħrif li hu meħtiegħ li jingħata taħt dan l-Att; u jekk tirrifjuta li tagħti r-reġistrazzjoni jew l-iskrizzjoni, hija għandha tgħarraf lill-applikant bil-miktub ir-raġunijiet għar-rifjut:

Iżda, f'kull każ l-awtorità kompetenti tista' tiehu dawk il-mizuri li jidhriha meħtiegħa biex jithares l-interess tal-pubbliku.

**14.** (1) Ma' l-ghoti tar-reġistrazzjoni jew iskrizzjoni taħt l-artikolu 13 ta' dan l-Att, l-awtorità kompetenti għandha toħroġ lill-applikant konċernat ċertifikat ta' reġistrazzjoni jew iskrizzjoni fil-forma u bil-mod li jidhriha xieraq u li jkun juri -

Ċertifikat ta' reġistrazzjoni jew iskrizzjoni ta' l-intermedjarji.

(a) fil-każ ta' applikazzjoni għal reġistrazzjoni, ir-reġistrazzjoni ta' l-applikant konċernat fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers*, skond kif ikun il-każ;

(b) fil-każ ta' applikazzjoni għal iskrizzjoni, iskrizzjoni ta' l-applikant konċernat fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers* skond kif ikun il-każ;

(2) Ċertifikat ta' reġistrazzjoni jew iskrizzjoni mahruġ taħt dan l-artikolu jew kopja uffiċjali tiegħu, għandha titqiegħed għall-wiri f' post prominenti mid-detentur konċernat fil-post jew fil-postijiet tan-negozju tiegħu, jew f' parti minnhom fejn il-pubbliku jkollu aċċess.

(3) L-awtorità kompetenti tista' permezz ta' regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tiddetermina d-dettalji li għandhom jiġu inklużi fiċ-ċertifikat ta' reġistrazzjoni jew ta' iskrizzjoni.

## TAQSIMA IV

### SETGHAT TA' INTERVENT FIL-KONFRONT TA' PERSUNI ISKRITTI SKOND TAQSIMA III TA' DAN L-ATT

Revoka awtomatiku tar-registrazzjoni jew ta' l-iskrizzjoni ta' l-intermedjarju.

**15.** (1) Intermedjarju registrat jew iskrutt skond dan l-Att ghandu awtomatikament jithassar minn fuq ir-Registru jew Lista, jekk -

(a) l-intermedjarju ma jibdiex imexxi attivitajiet ta'intermedjarji fl-assigurazzjoni fi żmien tnax-il xahar mir-registrazzjoni jew mill-iskrizzjoni tieghu, jew f'dak iż-żmien l-iehor li jista' jigi speċifikat fiċ-ċertifikat tar-registrazzjoni jew iskrizzjoni; jew

(b) l-intermedjarju jkun ġie dikjarat fallut jew imur f'likwidazzjoni jew jagħmel kompożizzjoni mal-kredituri tieghu jew xort'ohra jkun xolt; jew

(ċ) l-intermedjarju ma jkunx waqaf milli jopera b'riżultat ta' *merger* ma' kumpannija ohra li tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni jew għal kull raġuni ohra tkun liema tkun; jew

(d) fil-każ ta' kumpannija barranija iskrutta skond m'hemm fl-artikolu 13 ta' dan l-Att, u l-awtorità regolatorja barranija fil-pajjiż tar-registrazzjoni jew fejn ikun jinstab l-uffiċċju prinċipali, jirtira ir-registrazzjoni jew il-permess li tmexxi dawk l-attivitajiet.

(2) Paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu m'għandux japplika għall-persuna iskrutta biex taġixxi bħala *manager* fl-assigurazzjoni.

Setgħa ta' l-awtorità kompetenti li tissospendi jew thassar isem mir-registru jew mil-lista.

**16.** Bla hsara għal kull haġa li tinsab f'xi disposizzjoni ohra ta' dan l-Att, l-awtorità kompetenti tista' f'kull żmien tissospendi r-registrazzjoni jew l-iskrizzjoni jew thassar mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* l-isem ta' kull persuna registrata jew kumpannija iskrutta jekk -

(a) xi dokument jew tagħrif li jingħata ma' applikazzjoni għar-registrazzjoni jew iskrizzjoni, jew xi tagħrif li jingħata dwarha, ikun falz, mhux korrett jew qarrieqi f'xi dettal materjali, jew jekk il-persuna registrata jew iskrutta tkun hbiet, jew hbiet minn, jew tonqos li tgharraf lil, l-awtorità kompetenti b'xi dokument jew tagħrif jew tibdil fih li kienet fid-dmir li tikxef jew li tgharraf taht dan l-Att jew regolamenti magħmulin bis-saħħa tieghu, jew b'regoli dwar l-intermedjarji fl-assigurazzjoni; jew



(b) tikkunsidra li l-persuna reġistrata jew iskritta ma tkunx tissodisfa il-htigiet ta', jew tkun kisret, xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin bis-sahha tiegħu, jew ta' xi regola dwar l-intermedjarji fl-assigurazzjoni, jew tkun naqset li tissodisfa jew thares xi kundizzjoni li hu jew hi, jew ir-reġistrazzjoni jew l-iskrizzjoni, ikunu soġġetti għaliha bis-sahha ta' dan l-Att jew tahtu; jew

(c) tikkunsidra li l-persuna reġistrata jew iskritta ma tkunx tajba biex isimha jibqa' fuq ir-Registru ta' l-Aġenti, ir-Registru tal-*Managers* jew ir-Registru tal-*Brokers* jew fuq il-Lista ta' l-Aġenti, il-Lista tal-*Managers* jew il-Lista tal-*Brokers*; jew

(d) il-kumpannija iskritta ma tkunx immexxija b'mod tajjeb u prudenti biex isimha jibqa' fuq il-Lista ta' l-Aġenti, il-Lista tal-*Managers* jew il-Lista tal-*Brokers*; jew

(e) tirċievi talba bil-miktub biex tagħmel hekk minghand il-persuna reġistrata jew iskritta; jew

(f) il-persuna iskritta ma jkunx fadlilha il-fondi tal-persuna nnifisha għandu jkollha biżżejjed kemm meħtieġ; jew

(g) il-persuna iskritta tonqos li thallas id-dritt ta' kull sena meta jkun dovut biex tibqa' reġistrata jew tibqa' iskritta; jew

(h) il-persuna reġistrata jew iskritta tkun għet dikjarata falluta jew il-kumpannija iskritta tmur f'likwidazzjoni jew tagħmel kompożizzjoni mal-kredituri tagħha jew xort'ohra tkun xolta; jew

(i) jekk il-kumpannija iskritta ma jibqax ikollha fuq il-bord tad-diretturi tagħha xi persuna li tkun persuna reġistrata; jew

(j) tikkunsidra li, minhabba l-mod li bih il-persuna reġistrata jew iskritta tkun qed tmexxi l-attivitajiet ta' intermedjarju fl-assigurazzjoni, jew għal xi raġuni valida oħra, l-interess ta' l-industrija ta' l-assigurazzjoni jew tal-pubbliku ikun mhedded; jew

(k) il-persuna reġistrata jew il-persuna iskritta tkun ikkommettiet miżapproprjazzjoni jew ikkonvertiet għall-użu tagħha jew żammet illegalment flus li jkunu miżmuma, jew meħtieġa li jinżammu, minnha bhala fiduċjarja; jew

(l) il-persuna reġistrata jew iskritta tinsab hatja minn qorti ta' xi reat kriminali, li ma jkunx reat li, minhabba ċ-ċokon tiegħu jew iċ-ċirkostanzi li fih ikun sar, ma jirrendihix mhux idonea biex

isimha jkun fuq ir-Registru ta' l-Aġenti, ir-Registru tal-*Managers* jew ir-Registru tal-*Brokers* jew fuq il-Lista ta' l-Aġenti, il-Lista tal-*Managers* jew il-Lista tal-*Brokers*; jew

(m) il-persuna registrata jew iskritta tkun meqjusa mill-awtorità kompetenti li tkun mexxiet attivitajiet ta' intermedjarji fl-assigurazzjoni b'mod mhux professjonali; jew

(n) l-awtorità kompetenti ma tkunx tista' teżercita effettivament il-funzjonijiet tagħha ta' sorveljanza minhabba li jkunu jeżistu rabtiet mill-qrib kif jista' jiġi mfisser f'regoli dwar l-intermedjarji fl-assigurazzjoni magħmula taht dan l-Att.

Avviż ta' hsieb ta' sospensjoni jew thassir ta' isem mir-registru jew mil-lista.

**17.** (1) Bla hsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, meta l-awtorità kompetenti tkun bi hsiebha tissospendi jew thassar l-isem ta' persuna registrata jew iskritta mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers*, din għandha tagħti avviż bil-miktub lill-persuna konċernata fejn tagħti r-raġunijiet għaliex bi hsiebha tagħmel hekk.

(2) Kull avviż mogħti taht is-subartikolu (1) għandu jkun jgħid li l-persuna konċernata tista', f'dak iż-żmien raġonevoli min-notifika li jingħad fl-avviż (li ma jkunx ta' inqas minn tmienja u erbghin siegħa u mhux iktar minn hmistax-il jum) tagħmel l-ilmenti tagħha bil-miktub lill-awtorità kompetenti fejn tagħti r-raġunijiet għaliex ir-registrazzjoni jew l-iskrizzjoni ma għandhiex tiġi sospiza jew titħassar mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* u l-awtorità kompetenti tista' tikkunsidra kull ilment hekk magħmul qabel ma tasal għal deċiżjoni finali.

(3) L-awtorità kompetenti għandha tavża bil-miktub id-deċiżjoni finali tagħha lill-persuna konċernata.

(4) Ma' l-avviż mill-awtorità kompetenti lil persuna li isimha jkun sospiż jew li jkun thassar mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers*, l-intermedjarju konċernat għandu minnufih jikkonsenja lill-awtorità kompetenti ċ-ċertifikat tar-registrazzjoni jew iskrizzjoni, u kull kopji ufficjali tiegħu; u f'kull każ, l-awtorità kompetenti tista' tieħu dik il-miżura l-oħra li jidhrilha meħtieġa biex thares l-interessi ta' l-assigurati, tad-detenturi ta' polza, tal-kredituri jew ta' persuni oħra li jkollhom interess.

(5) F'kazijiet fejn l-awtorità kompetenti tkun issospendiet r-registrazzjoni jew l-iskrizzjoni jew tkun hassret isem il-persuna mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* għal xi wahda mir-raġunijiet speċifiki fl-artikolu 16 ta' dan l-Att, hija tista' jekk, tagħzel li tagħmel dan, taghti pubbliċita lil dik is-sospensjoni jew thassir b' mod li jidrilha xieraq.

(6) L-awtorità kompetenti jkollha s-setgħa li tordna li l-ispejjeż kollha ta' pubblikazzjoni ta' avviż li ssir bis-saħħa ta' dan l-artikolu, jew parti minnhom skond ma' jidhrilha xieraq, għandhom jithallsu mill-persuna konċernata; u kull somma hekk dovut għandha tingabar mill-awtorità kompetenti bl-istess mod bħalma tingabar penali amministrattiva dovuta skond dan l-Att.

**18.** (1) Meta l-isem ta' persuna jkun thassar mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* skond deċiżjoni li tittiehed taht l-artikolu 16 ta' dan l-Att, l-isem ta' dik il-persuna ma jerġgħax jidhol fir-registru jew fil-lista kemm-il darba –

Restituzzjoni ta' isem li jkun thassar mir-Registru jew mil-Lista.

(a) ma jkunx ordnat xort'ohra mit-Tribunal; jew

(b) fin-nuqqas ta' dak l-ordni, l-awtorità kompetenti, wara applikazzjoni magħmula lilha għal dan l-ghan, ma tiddeċidix xort'ohra;

(2) L-awtorità kompetenti għandha tiddeċiedi fuq applikazzjoni għar-restituzzjoni ta' isem ta' persuna fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers* jew fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers* taht dan l-artikolu fi żmien tliet xhur minn meta tircievi t-tagħrif meħtieġ li jingħata taht dan l-Att daqslikieku l-applikazzjoni kienet applikazzjoni magħmula taht l-artikolu 13 ta' dan l-Att; u jekk tirrifjuta li tirrestitwixxi isem ta' persuna jew ta' kumpannija fir-registru jew fil-lista, din għandha tgharraf bil-miktub lill-applikant bir-raġunijiet għar-rifjut.

(3) Is-subartikolu (2) ma japplikax meta r-restituzzjoni ta' isem ta' persuna fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers* jew fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers* issir b'ordni tat-Tribunal.

**19.** (1) Bla hsara għas-segħat mogħtija lill-awtorità kompetenti taht l-artikolu 16 ta' dan l-Att, l-awtorità kompetenti tista', fejn tkun sodisfatta li jeżistu ċirkostanzi serji bizżejjed, tipproċedi biex tieħu xi wahda jew iżjed mill-miżuri li ġejjin:

Setgħa ta' l-awtorità kompetenti li thares l-interess pubbliku.

(a) billi tehtieg lill-intermedjarju minnufih jiehu dawk il-passi skond ma l-awtorità kompetenti tista' tqis li jkunu mehtiega biex il-kwistjoni tigi rettifikata jew rimedjata;

(b) billi tahtar persuna biex taghti pariri lill-intermedjarju dwar kif ghandu jmexxi l-kummerc tieghu sew;

(c) billi tahtar persuna biex tiehu hsieb ta' l-attiv kollu ta' l-intermedjarju, jew ta' xi sehem minnhom, sabiex jiggu mharsa l-interessi ta' l-assigurati, tad-detenturi ta' polza, tal-kredituri u ta' azzjonisti tal-kumpanija;

(d) billi tahtar persuna li tassumi kontroll tal-kummerc ta' l-intermedjarju jew li tmexxi dak il-kummerc jew li twettaq dik il-funzjoni jew funzjonijiet ohra dwar tali kummerc, jew parti minnu, hekk kif tista' tordna l-awtorità kompetenti;

(e) billi taghti ordni ghax-xoljiment u l-istralc ta' kumpanija jew fil-każ ta' kumpanija barranija, ghax-xoljiment tal-kummerc taghha f'Malta;

(f) billi tahtar persuna kompetenti biex taghmilha ta' stralcjarju ghall-fini ta' l-istralc tal-kummerc tal-kumpanija iskritta;

(g) billi tistabbilixxi r-rimunerazzjoni li ghandha tithallas mill-intermedjarju lil xi persuna mahtura taht dan l-artikolu;

(h) billi tehtieg lill-intermedjarju jipprezenta pjan ta' rkupru finanzjarju jekk jidhrilha li l-interess ta' l-assigurati, tad-detenturi ta' polza, tal-kredituri jew persuni ohra li jkollhom interess x'aktarx ikunu pregudikati minhabba fid-deterjorazzjoni fil-qagħda finanzjarja ta' l-intermedjarju;

(i) billi tehtieg lill-persuna registrata jew iskritta biex tnehhi l-kelma "assigurazzjoni" bhala parti minn isimha jew bhala mid-deskrizzjoni tat-titolu taghha, u li ma tużax l-imsemmija kelma fuq xi ittra, karta, f'xi avviz jew reklam jew b'xi mod iehor, ikun li jkun;

(j) billi taghmel kull att iehor jew tehtieg li jsir kull att iehor bhal ma jitqies li jkun adatt fiċ-ċirkostanzi,

u wara li tkun imxiet f'xi mod wiehed jew aktar minn dawk hawn qabel imsemmija, l-awtorità kompetenti tista', iktar minn hekk tghaddi għal xi mod wiehed jew aktar minn dawk hawn qabel imsemmija, kemm b'żieda ma' dan kollu, jew f'sostituzzjoni għalih.

## (2) Meta tinhatar persuna mill-awtorità kompetenti -

(a) taht il-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ikun id-dmir ta' l-intermedjarju li jaġixxi skond il-parir moghti minn dik il-persuna kemm-il darba u sakemm l-awtorità kompetenti, minhabba f' ilment li jsirilha, ma tordnax xort'ohra;

(b) taht il-paragrafu (ċ) tas-subartikolu (1) ta' dan l-artikolu, l-intermedjarju ghandu jikkonsennja lil dik il-persuna l-attiv kollu li jkun responsabbli ghalih, u l-poteri, il-funzjonijiet u d-dmirijiet kollha ta' l-intermedjarju fir-rigward ta' dak l-attiv kollu, u dwar kumpannija, sew jekk dawn ikunu eżerċitati mill-intermedjarju waqt laqgħa ġenerali, jew mid-diretturi, jew minn xi persuna ohra, inkluża r-rappreżentanza legali u gudizzjarja ta' l-intermedjarju, għandhom jiġu eżerċitati minn u jvestu fil-persuna mahtura taht dak il-paragrafu b'esklużjoni ta' kull persuna ohra;

(ċ) taht il-paragrafu (d) tas-subartikolu (1) ta' dan l-artikolu, l-intermedjarju ghandu jqiegħed il-kummerċ tiegħu taht il-kontroll ta' dik il-persuna u hija għandha tipprovdilu dawk il-faċilitajiet li jista' jkun jehtieg li l-intermedjarju jipprovdih bihom biex tmexxi dak il-kummerċ jew biex taqdi l-funzjonijiet lilha mogħtija taht dak il-paragrafu; u l-poteri, il-funzjonijiet u d-dmirijiet kollha ta' l-intermedjarju, u dwar kumpannija, sew jekk dawn ikunu eżerċitati mill-intermedjarju waqt laqgħa ġenerali, jew mid-diretturi, jew minn xi persuna ohra, inkluża r-rappreżentanza legali u gudizzjarja tal-kumpannija, għandhom jiġu eżerċitati minn, u jvestu fil-persuna mahtura taht dak il-paragrafu b'esklużjoni ta' kull persuna ohra;

(d) taht il-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu, dik il-persuna tkun l-istralċjarju ta' l-intermedjarju għall-finijiet kollha tal-liġi b'esklużjoni ta' kull persuna ohra.

(3) Fil-każ ta' kumpannija barranija, il-fergħat u l-uffiċċji f'Malta ta' dik il-kumpannija għandhom, jekk l-awtorità kompetenti hekk tordna u sal-limitu li hekk tordna, jitqiesu li jikkostitwixxu kumpannija separata.

## TAQSIMA V

### OBBLIGAZZJONIJIET TA' PERSUNI ISKRITTI SKOND TAQSIMA III TA' DAN L-ATT

**20.** (1) Kull persuna iskritta skond l-artikolu 13 ta' dan l-Att għandha żżomm il-flejjes kollha li jkunu għandha f'kapaċità fiduċjarja separati mill-flejjes tagħha stess u għandha, dwar dawk il-flejjes, iżżomm

Flejjes miżmuma  
f'kapaċità  
fiduċjarja.

kontijiet separati skond htigiet stabbiliti minn regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Ebda persuna m'għandu jkollha jew tikseb xi rimedju jew dritt dwar flejjes li jkunu bi kreditu tal-kont imsemmi fis- subartikolu (1) dwar xi talba jew dritt kontra persuna iskritta sakemm kull talba proprja li ġejja minn attivitajiet ta' intermedjarji fl-assigurazzjoni għal dawk il-flejjes tkun ġiet sodisfatta, ukoll fil-każ ta' falliment ta' l-individwu jew stralċ tal-kumpannija, skond kif ikun il-każ.

Garanzija ta' fedeltà mehtieġa minn intermedjarji ta' l-assigurazzjoni.

**21.** (1) Bla hsara għall-artikolu 20 ta' dan l-Att, kull persuna iskritta skond artikolu 13 ta' dan l-Att għandha tagħmel garanzija ta' fedeltà f'forma speċifikata, dwar attivitajiet ta' intermedjarja fl-assigurazzjoni imexxija mill-intermedjarju konċernat, f'dawk iċ-ċirkustanzi, ta' dak il-valur, b'dak il-mod u taht dawk il-kundizzjonijiet li jistgħu jiġu stabbiliti b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Il-garanzija msemmija fis-subartikolu (1) għandha tipprowdi li fil-każ li persuna iskritta ma tkunx tista' jew tonqos milli tissodisfa l-obbligazzjonijiet finanzjarji tagħha dwar xi somom ta' flus riċevuti minnha minghand il-klijenti tagħha, jew għan-nom tagħhom, għandha titqieghed somma ta' flus għad-disposizzjoni ta' persuna nominata jew approvata mill-awtorità kompetenti biex tintuża għall-benefiċċju ta' xi klijent tal-persuna iskritta li jkun sofra telf jew dannu minhabba li l-persuna iskritta ma tkunx setgħat jew naqset milli tissodisfa dawk l-obbligazzjonijiet finanzjarji tagħha.

Eżenzjonijiet applikabbli għall-*managers* fl-assigurazzjoni.

**22.** Id-disposizzjonijiet ta' l-artikoli 20 u 21 ta' dan l-Att ma' japplikawax għal persuna iskritta bhala *manager* fl-assigurazzjoni għal dak iż-żmien li l-persuna ma jkollix hatra minn xi assiguratatur jew minn *broker* fl-assigurazzjoni biex taġixxi f'dik il-kapaċità.

Avviż dwar persuni reġistrati fir-reġistru.

**23.** Kull kumpannija iskritta għandha, mhux iktar tard mill-aħhar ta' Jannar ta' kull sena, tagħti avviż bil-miktub lill-awtorità kompetenti b'dak il-mod li l-awtorità kompetenti tista' tehtieġ, l-isem u dettalji l-oħra li wkoll tista' tehtieġ, ta' kull direttur u impjegat tal-kumpannija li jkunu reġistrati fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers*; u matul it-tnax-il xahar ta' wara, il-kumpannija għandha tagħti avviż bil-miktub lill-awtorità kompetenti b'kull tibdil li, minn żmien għal żmien, jista' jkun hemm fost dawk id-diretturi u impjegati, u dak l-avviż għandu jingħata f'dak il-perjodu kif jista' jkun imsemmi f'regola ta' l-intermedjarji fl-assigurazzjoni.

Għoti ta' dikjarazzjonijiet finanzjarji verifikati.

**24.** (1) Kull kumpannija iskritta għandha, mhux iktar tard minn erba' xhur mid-data ta' l-għeluq tas-sena finanzjarja tagħha, jew f'xi żmien

iehor li eċċezjonalment ikun awtorizzat bil-miktub mill-awtorità kompetenti, tibghat lill-awtorità kompetenti kopja tad-dikjarazzjonijiet finanzjarji verifikati taghha li jkunu saru -

(a) fil-każ ta' kumpannija lokali, skond id- disposizzjonijiet ta' l-Att dwar il-Kumpanniji; u

(b) fil-każ ta' kumpannija barranija, skond id- disposizzjonijiet tal-liġijiet tal-pajjiż fejn l-uffiċċju registrat jew l-uffiċċju prinċipali tal-kumpannija jkun sitwat li jirregolaw id- dikjarazzjonijiet finanzjarji ta' dawn il-kumpanniji.

(2) Kull persuna iskritta li tkun individwu ghandha tipprovdi dikjarazzjonijiet dwar kull dhul li jkunu saru kif stabbilit minn regola dwar l-intermedjarji fl-assigurazzjoni li tkun saret għall-fini ta' dan l-artikolu u dawn id-dikjarazzjonijiet ghandhom jintbghatu lill-awtorità kompetenti f'dak il-perjodu li jista' jkun b'regola stabbilit.

**25.** (1) Bla hsara għas-subartikoli li ġejjin ta' dan l-artikolu, persuna iskritta li f'xi sena kalendarja tmexxi attivitajiet ta' intermedjarji fl-assigurazzjoni ghandha, dwar l-attivitajiet ta' intermedjarji fl-assigurazzjoni li hekk tkun mexxiet, tibghat lill-awtorità kompetenti dikjarazzjoni dwar dak il-kummerċ magħmula f'dik il-forma, f'dak il-mod u b'dak il-kontenut li l-awtorità kompetenti tista' tistabbilixxi b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu; u d-data sa meta dik id-dikjarazzjoni ghandha tintbaghat tkun ukoll stabbilita b'dik ir-regola.

Għoti ta' dikjarazzjonijiet dwar il-kummerċ ta' l-intermedjarji fl-assigurazzjoni.

(2) Id-dikjarazzjoni li ghandha tinghata taht dan l-artikolu ghandha tkun verifikata bil-mod mehtieg bir-regola dwar intermedjarji fl-assigurazzjoni.

(3) L-awtorità kompetenti tista' f'kull żmien tordna lil persuna iskritta biex taghtiha dik id-dikjarazzjoni kull tant żmien u għal dak il-perjodu li tista' tispeċifika f'dik ir-regola.

**26.** Persuna iskritta ma ghandhiex tieqaf milli tmexxi, f'Malta jew minn Malta, attivitajiet ta' intermedjarju fl-assigurazzjoni hlief bil-permess ta' l-awtorità kompetenti mogħti bil-miktub fuq applikazzjoni li ssirilha għaldaqshekk b'dak il-mod li tista' tehtieg, u bit-tharis ta' dawk il-kundizzjonijiet li jidhirlha xierqa li timponi.

Persuni iskritti li jiefqu mit-tmexxija ta' kummerċ bhala intermedjarji fl-assigurazzjoni.

## TAQSIMA VI

### SENA FINANZJARJA U UEDITURI

Sena finanzjarja ta' l-intermedjarji fl-assigurazzjoni.

**27.** (1) Kull kumpannija iskritta taht l-artikolu 13 ta' dan l-Att li tkun kumpannija lokali ghandha, mhux iktar tard minn tliet xhur mid-data ta' l-iskrizzjoni tal-kumpannija, tavza bil-miktub lill-awtorita kompetenti meta tkun is-sena finanzjarja taghha u, fin-nuqqas ta' dak l-avviz, is-sena finanzjarja tal-kumpannija iskritta ghandha tintemm fil-wiehed u tletin ta' Dicembru ta' kull sena.

(2) Ebda kumpannija iskritta kif hawn qabel imsemmi ma ghandha tibdel is-sena finanzjarja taghha kemm-il darba u sakemm l-awtorita kompetenti ma tkunx tat l-approvazzjoni taghha bil-miktub fuq applikazzjoni li ssirilha ghaldashekk.

(3) Kull kumpannija barranija li tapplika ghall-iskrizzjoni taht l-artikolu 13 ta' dan l-Att ghandha, ma' l-applikazzjoni, tavza bil-miktub lill-awtorita kompetenti meta tkun is-sena finanzjarja taghha; u wara l-iskrizzjoni taht dak l-artikolu, meta kumpannija barranija tibdel is-sena finanzjarja taghha, din ghandha minnufih tavza bil-miktub lill-awtorita kompetenti b'dak it-tibdil.

(4) Ghall-finijiet ta' dan l-Att "sena finanzjarja"-

(a) dwar kumpannija iskritta li tkun kumpannija lokali, tfisser perijodu ta' kontijiet kif jiftiehem skond l-artikoli minn 164 sa 166 ta' l-Att dwar il-Kumpanniji;

(b) dwar kumpannija iskritta li tkun kumpannija barranija, tfisser perijodu ta' kontijiet kif jiftiehem skond id-disposizzjonijiet tal-ligijiet tal-pajjiz fejn ikun qieghed l-ufficcju rregistrat jew l-ufficcju principali tal-kumpannija li jkunu jirregolaw il-perijodu ta' kontijiet ta' dawk il-kumpanniji.

Hatra, dmirijiet u terminazzjoni tal-hatra ta' udituri.

**28.** (1) Kull kumpannija iskritta taht l-artikolu 13 ta' dan l-Att ghandha kull sena tahtar uditur approvat bhala uditur tal-kumpannija li d-dmir tieghu jkun li jirrapporta dwar id-dikjarazzjonijiet finanzjarji tal-kumpannija ezaminati minnu u dwar id-dikjarazzjonijiet finanzjarji mhejjija mill-kumpannija.

(2) Jekk kumpannija iskritta tonqos li tahtar uditur skond is-subartikolu (1) ta' dan l-artikolu jew, f'xi zmien tonqos li timla vakanza fil-kariga ta' uditur, l-awtorita kompetenti jkollha s-setgha li tahtar uditur ghal dik il-kumpannija u ghandha tistabilixxi r-remunerazzjoni li ghandha tithallas minn dik il-kumpannija lil dak l-uditur.



(3) Ir-rapport ta' l-uditor ghandu jinkludi dikjarazzjoni dwar jekk id-diversi htigiet ta' dan l-Att u ta' kull regolamenti maghmulin tahtu u ta' kull regola dwar l-intermedjarji fl-assigurazzjoni dwar il-kumpannija iskritta ikunux tharsu u gew osservati.

(4) Kull uditur ta' kumpannija iskritta jkollu l-jedd li jitlob dak it-taghrif jew spjegazzjoni li jidhirli mehtiega fil-qadi tad-dmirijiet tieghu minghand kull ufficjal jew impjegat ta', jew kull persuna li jkollha hatra minn, dik il-kumpannija.

(5) Uditur ghandu minnufih javza bil-miktub lill-awtorità kompetenti jekk -

- (a) jirrizenja;
- (b) ma jkunx bi hsiebu jiehu dik il-kariga mill-gdid; jew
- (c) jiddeciedi li jikkwalifika r-rapport ta' verifika,

u, fis-sitwazzjonijiet imsemmija f' paragrafi (a) u (b) ta' dan is-subartikolu, l-uditor ghandu jispecifika r-raġunijiet ghaliex ghamel dan.

(6) Kumpannija iskritta ghandha taghti avviz bil-miktub lill-awtorità kompetenti minnufih malli tircievi avviz ta' rizoluzzjoni mahsub biex jitqieghed quddiem il-laqgha generali annwali tal-kumpannija biex tinharar bhala uditur persuna li ma tkunx l-uditor li se jirtira jew li xort'ohra jipprovdi espressament li l-uditor li jkun se jirtira ma jergax jigi mahtur.

(7) Meta, ghal xi raġuni tkun li tkun, il-hatra ta' uditur tintemm, il-kumpannija iskritta ghandha, mhux iktar tard minn erbatax-il jum mit-tmiem ta' dik il-hatra, taghti avviz bil-miktub lill-awtorità kompetenti fejn tgħid ir-raġunijiet ghal dak it-tmiem.

(8) L-awtorità kompetenti tista' tehtieg lil kumpannija iskritta biex tibdel lill-uditor mahtur minnha meta, fil-fehma ta' l-awtorità kompetenti, dak l-uditor jitqies li ma jkunx adatt ghal din il-kariga, f' xi zmien matul il-perijodu tal-hatra tieghu.

(9) Qabel ma tehtieg lil kumpannija iskritta biex tbiddel lill-uditor taghha fiċ-ċirkostanzi msemmija fis-subartikolu (8) ta' dan l-artikolu, l-awtorità kompetenti ghandha tavza bil-miktub l-intenzjoni taghha lill-kumpannija u lill-uditor koncernat fejn taghti r-raġunijiet li tehtieg dak it-tibdil u taghti lill-uditor l-opportunità li jissottometti bil-miktub, fi zmien erbatax-il jum mid-data tan-notifika ta' dak l-avviz, ir-raġuni ghaliex il-hatra tieghu ma' dik il-kumpannija ma ghandhiex tintemm.

Kap. 386.

Kap. 403.

(10) Għall-finijiet ta' dan l-Att, uditur approvat għandu jkun persuna li tkun kwalifikata biex tkun uditur skond l-Att dwar il-Kumpanniji u li jkollha l-awtorizzazzjoni ta' l-awtorità kompetenti biex taġixxi bħala uditur mahruġa lilha taht l-Att dwar il-Kummerċ ta' l-Assigurazzjoni.

(11) Minkejja kull haġa li tinsab fis-subartikoli ta' qabel ta' dan l-artikolu, l-awtorità kompetenti tista', fil-każ ta' kumpannija barranija, tapprova dawk l-arranġamenti alternattivi li jidhrilha raġonevoli u li ma jkunux jiddevjaw materjalment mill-ghanijiet ewlenin ta' dan l-artikolu, u meta dawk l-arranġamenti jkunu twettqu, id-disposizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw safejn ikunu sostitwiti b'dawk l-arranġamenti.

(12) Jekk, fil-kariga tiegħu bħala uditur ta' kumpannija iskritta jew bħala riżultat ta' talba diretta mill-awtorità kompetenti taht dan l-Att, uditur isir jaf b'xi materja li jkollha x'taqsam ma' u li jista' jkollha effett avvers serju fuq l-istabbiltà u s-saħħa tal-kumpannija jew l-integrità tal-kummerċ tal-intermedjarju fl-assigurazzjoni f'Malta, huwa għandu minnufih jgħarraf lill-awtorità kompetenti permezz tad-direzzjoni tal-kumpannija jew, jekk iċ-ċirkostanzi hekk jiġġustifikaw, direttament lill-awtorità kompetenti.

(13) Għall-finijiet tas-subartikolu (12), kull materja li jista' jkollha x'taqsam ma' u li jista' jkollha effett avvers serju tinkludi kull materja li -

(a) x'aktarx twassal għal kwalifika serja, jew rifjut tar-rapport ta' l-uditur fuq il-kontijiet tal-kumpannija; jew

(b) b'mod serju tfixkel il-hila tal-kumpannija li tkompli fil-kummerċ jew li tkompli l-attivitajiet li għalihom twaqqfet; jew

(ċ) skond ma' jista' jiġi ordnat mill-Ministru.

(14) Uditur ta' kumpannija iskritta ikollu bl-istess mod id-dmir li jirrapporta lill-awtorità kompetenti kull fatt u deċiżjoni li jkollhom x'jaqsmu ma' jew li jista' jkollhom effett avvers serju fuq l-istabbiltà u s-saħħa tal-kumpannija jew l-integrità ta' l-attivitajiet ta' intermedjarji fl-assigurazzjoni f'Malta, u li jsir jaf bihom fil-kariga tiegħu bħala uditur ta' kumpannija li jkollha rabtiet mill-qrib, skond kif imfisser fl-artikolu 10 ta' dan l-Att.

Komunikazzjoni mill-udituri eċċ., ma' l-awtorità kompetenti.

**29.** Ebda dmir, inkluż id-dmir tas-sigriet professjonali, li għalih -

(a) uditur ta' kumpannija iskritta skond l-artikolu 13 ta' dan l-Att jista' jkun soġġett, ma ghandu jitqies li jkun inkiser minhabba li dan ikun b'*bona fide* ikkomunika lill-awtorità kompetenti, sew jekk wara talba li din tkun għamlet u sew jekk le, xi informazzjoni jew opinjoni dwar materja li l-uditur ikun sar jaf biha minhabba l-kariga tiegħu bħala uditur ta' dik il-kumpannija u li tkun rilevanti għal xi funzjoni ta' l-awtorità kompetenti taht id-disposizzjonijiet ta' dan l-Att jew li tkun mehtieġa li tkun komunikata bis-saħħa ta' dan l-Att;

(b) persuna mahtura biex tagħmel rapport taht xi disposizzjoni ta' dan l-Att tista' tkun soġġetta, ma ghandu jitqies li jkun inkiser minhabba li dan ikun ikkomunika *in bona fide* lill-awtorità kompetenti, sew jekk wara talba li din tkun għamlet u sew jekk le, fuq xi haġa li għandha x'taqsam mal-kummerċ jew l-affarijiet ta' kumpannija iskritta li dwarha jsir rapport.

## TAQSIMA VII

### DISPOSIZZJONIJIET APPLIKABBLI GĦALL-INTERMEDJARJI LI JMEXXU KUMMERĊ TA' *BROKERS* FL-ASSIGURAZZJONI

**30.** Kumpannija lokali iskritta taht l-artikolu 13 ta' dan l-Att u li tkun qed tmexxi kummerċ bħala *broker* fl-assigurazzjoni, ristrett għall-kuntratti ta' assicurazzjoni li jirrigwardaw riskji sitwati barra minn Malta, tista' tahtar *manager* fl-assigurazzjoni iskritt taht l-Att biex imexxi dak l-kummerċ; u sakemm il-*manager* fl-assigurazzjoni jibqa f' dik il-hatra, il-kummerċ ta' *broking* fl-assigurazzjoni għandu jkun taht it-tmexxija ta' *broker* fl-assigurazzjoni reġistrat.

Hatra ta' *manager* fl-assigurazzjoni minn *broker* fl-assigurazzjoni iskritt.

**31.** (1) Bla hsara għas-subartikoli li ġejjin, hlief bl-approvazzjoni tal-Ministru mogħtija b'mod ġenerali b'ordni fil-Gazzetta, jew bl-approvazzjoni ta' l-awtorità kompetenti mogħtija speċifikament bil-miktub, kuntratt ta' l-assigurazzjoni dwar riskju sitwat f'Malta jew dwar rabta fejn Malta hija l-pajjiż tar-rabta, negozjat, irrangat jew miksub mill-*broker* fl-assigurazzjoni f'isem persuna assicurata jew tal-persuna li tkun se tiġi għandha tiġi assicurata għandu jsir ma' kumpannija awtorizzata.

Kuntratti ta' assicurazzjoni dwar riskji sitwati f'Malta jew rabtiet meta Malta tkun il-pajjiż tar-rabta.

(2) Meta kuntratt ta' assicurazzjoni jkun kuntratt ta' klassi ta' kummerċ ġenerali jew ta' parti minn klassi li jaqa' taht il-grupp 3 tal-Parti II tat-Tielet Skeda li tinsab ma' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni u dak il-kuntratt ikun kuntratt dwar riskju sitwat f'Malta u jittiehed ma' *mutual association*, dik l-*association* għandha tkun

*association* taht it-tifsira ta' "*mutual association*" kif miftiehem skond l-artikolu 6(3) ta' l-imsemmi Att; u l-*association* ghandha jissodisfa jew thares il-htigiet ta' direttiva dwar l-assigurazzjoni maghmula ghall-finijiet ta' l-imsemmi artikolu jew mad-data jew qabel id-data tal-bidu fis-sehh ta' dak il-kuntratt jew mhux iktar tard minn tletin jum mid-data ta' dak il-bidu fis-sehh.

(3) Hlief kif provdut fis-subartikolu (2), id-disposizzjonijiet ta' dan l-artikolu ma japplikawx ghal -

(a) kummerç ta' rijassigurazzjoni;

(b) riskji kbar kif ddefiniti minn l-Artikolu 5 tat-Tieni Direttiva tal-Kunsill 88/357/KEE tat-22 ta' Ġunju 1988 dwar il-koordinazzjoni ta' ligijiet, regolamenti u disposizzjonijiet amministrattivi li ghandhom x'jaqsmu ma' assicurazzjoni diretta ta' xort' ohra minn assicurazzjoni tal-hajja u li jstipulaw id-disposizzjonijiet li jiffacilitaw l-eżercizzju effettiv tal-liberta li jigu provduti servizzi u li temenda d-Direttiva 73/239/KEE.

*Underwriting agreements.*

**32.** (1) Bla hsara ghas-subartikoli li ġejjin ta' dan l-artikolu, kull persuna li tkun iskritta taht l-artikolu 13 ta' dan l-Att tista' taghmel jew tikkuntratta kull *underwriting agreement* ma' kull kumpannija awtorizzata.

(2) Ebda persuna iskritta kif imsemmi qabel ma ghandhiex taghmel jew tikkuntratta xi *underwriting agreement* kemm-il darba, dwar dak l-*underwriting agreement*, il-persuna ma' tharisx, jew ma tissodisfax, dawk il-htigiet li l-awtorità kompetenti, tista' permezz ta' regola dwar l-intermedjarji fl-assigurazzjoni maghmula ghall-finijiet ta' dan l-artikolu, tistabilixxi.

(3) Kull persuna iskritta kif imsemmi hawn qabel ghandha tirreġistra ghand l-awtorità kompetenti kull *underwriting agreement* maghmul jew ikkuntrattat taht dan l-artikolu fl-għamla u bil-mod li l-awtorità kompetenti tista', permezz ta' l-ordni dwar intermedjarji fl-assigurazzjoni, tistabilixxi.

(4) Ebda kummerç ta' assicurazzjoni ma ghandu jiġi aċċettat taht xi *underwriting agreement* kemm-il darba l-*underwriting agreement* ma jkunx ġie debitament registrat kif imsemmi qabel.

(5) L-awtorità kompetenti ghandha tiddeċiedi dwar applikazzjoni ghal reġistrazzjoni ta' xi *underwriting agreement* taht dan l-artikolu fi żmien xahar minn meta tircievi l-informazzjoni mehtieġa li tinghata skond l-ordni dwar intermedjarji fl-assigurazzjoni; u jekk l-

awtorità tirrifjuta li tirreġistra l-*agreement* hija ghandha tgharraf lill-applikant bil-miktub ir-raġunijiet ghar- rifjut.

(6) Bla hsara ghad-disposizzjonijiet ta' dan l-Att, l-awtorità kompetenti tista' tissoġġetta r-registrazzjoni ta' kull *underwriting agreement* magħmul taht dan l-artikolu ghal dawk il-kundizzjonijiet li tista' minn żmien għal żmien tqis xierqa li timponi.

(7) Għall-ghanijiet ta' dan l-artikolu "*underwriting agreement*", dwar il-kummerċ ta' l-assigurazzjoni, tfigher ftehim bejn kumpannija awtorizzata u persuna iskritta taht l-artikolu 13 ta' dan l-Att li bih il-persuna iskritta tista', skond il-provvedimenti tiegħu, taċċetta riskji f'isem il-kumpannija awtorizzata; u, f'dan il-kuntest, kull ftehim iehor, b'kull isem li jista' jissejjah bih, li jkollu ghanijiet u finijiet simili għal *underwriting agreement*, għandu jitqies għall-finijiet ta' dan l-artikolu li jkun *underwriting agreement*.

## TAQSIMA VIII

### REGISTRAZZJONI U ISKRIZZJONI TA' INTERMEDJARJI MARBUTA FL-ASSIGURAZZJONI

**33.** (1) Bla hsara għas-subartikolu (2) ta' dan l-artikolu, ebda persuna ma għandha taġixxi bhala intermedjarju marbut fl-assigurazzjoni u tmexxi, jew tipprova tmexxi, f'Malta attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni kemm-il darba dik il-persuna ma tkunx maħtura, reġistrata u iskritta skond id-disposizzjonijiet ta' dan l-Att.

Ir-reġistri ta' persuni li jmmexxu attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni.

(2) Dan l-artikolu m'għandux japplika għall-intermedjarju marbut fl-assigurazzjoni, li jkun reġistrat skond id-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Diċembru ta' l-2002 dwar il-medjazzjoni ta' l-assigurazzjoni fl-Istat Membru jew fl-Istat ŻEE, li ma jkunx Malta.

**34.** (1) Bla hsara għal artikolu 43 ta' dan l-Att, kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala intermedjarju marbut fl-assigurazzjoni għandha tistabbilixxi u żżomm reġistru ta' persuni li jaħdmu bhala intermedjarju marbut fl-assigurazzjoni, f'dan l-Att imsejjah "ir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni", li jkun fih il-partikolaritajiet li l-awtorità kompetenti tista' tistabbilixxi, minn żmien għal żmien, b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu, tal-persuni kollha li għandhom jedd li jkunu reġistrati fih taht dan l-Att.

Ir-Reġistri ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni.

(2) Bla hsara għad-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, kull kumpannija awtorizzata għandha tistabbilixxi l-

proċeduri tagħha stess dwar il-hatra u r-registrazzjoni ta' persuna bhala intermedjarju marbut fl-assigurazzjoni fir-Registru ta' Kumpanniji għal intermedjarju marbut fl-assigurazzjoni.

Kwalifiki għal registrazzjoni.

**35.** (1) Persuna jkollha l-jedd li tkun registrata minn kumpannija awtorizzata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni jekk il-kumpannija tkun sodisfatta li dik il-persuna tkun xierqa u idonea li tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni .

(2) Persuna ma jkollhiex jedd tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni bis-sahha tar-registrazzjoni tagħha taht l-artikolu 37 ta' dan l-Att sakemm u mhux qabel ma tkun iskritta mill-awtorità kompetenti fil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni taht dak l-artikolu.

Lista ta' persuni li jmexxu attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni.

**36.** (1) L-awtorità kompetenti għandha tistabbilixxi u żżomm lista ta' persuni li jmexxu attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni, f'dan l-Att imsejha "il-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni", li jkun fiha il-partikolaritajiet li l-awtorità kompetenti tista' tistabbilixxi, minn żmien għal żmien, b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu, tal-persuni kollha li għandhom il-jedd li jkunu iskritti fiha taht dan l-artikolu.

(2) Ikun id-dmir ta' kumpannija awtorizzata li tagħmel l-iskrizzjoni ma' l-awtorità kompetenti fil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni ta' kull persuna registrata minnha bhala intermedjarji marbuta fl-assigurazzjoni fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni taht l-artikolu 37 ta' dan l-Att.

(3) Mal-kisba mill-awtorità kompetenti ta' xi ċertifikat ta' iskrizzjoni taht l-artikolu 37 ta' dan l-Att, kumpannija awtorizzata għandha tagħti lill-persuna li f'isimha jinhareg iċ-ċertifikat ta' iskrizzjoni, iċ-ċertifikat mogħti lill-kumpannija mill-awtorità kompetenti jew kopja uffiċjali tiegħu.

(4) Meta persuna iskritta kif hawn qabel insemmi tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni minn post ta' negozju jew minn xi post iehor, il-persuna għandha tqiegħed għall-wiri f'pożizzjoni prominenti f'dak il-post, f'parti minnu fejn il-pubbliku jkollu aċċess, iċ-ċertifikat ta' iskrizzjoni jew kopja uffiċjali tiegħu mahruġ mill-awtorità kompetenti taht dan l-artikolu.

Hatra, registrazzjoni u iskrizzjoni ta' intermedjarji marbuta fl-assigurazzjoni.

**37.** (1) Bla hsara għad-disposizzjonijiet ta' dan l-Att, kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala intermedjarju marbut fl-assigurazzjoni għandha, taht dan l-artikolu, tahtar u tirreġistra fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta

fl-Assigurazzjoni tal-kumpannija u taghmel l-iskrizzjoni ma' l-awtorità kompetenti fil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, ta' persuna jew persuni biex jaġixxu f'isimha bhala intermedjarji marbuta fl-assigurazzjoni u biex imexxu f'Malta attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni f'dik il-klassi jew f'dawk il-klassijiet ta' kummerç fit-tul jew f'dik il-klassi jew f'dawk il-klassijiet, jew il-grupp jew gruppi ta' klassijiet ta' kummerç ġenerali speċifikati fil-hatriet rispettivi u, meta persuna ma tkunx individwu, dik il-persuna ghandha jkollha, hi nnifisha, individwu li jissodisfa l-htigiet ta' subartikolu (1) ta' artikolu 35:

Izda kumpannija hija projbita milli tahtar u tirreġistra fir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija persuna li tkun -

- (a) persuna reġistrata fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers* taht l-artikolu 13 ta' dan l-Att;
- (b) persuna reġistrata fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers* taht dak l-artikolu;
- (c) kumpannija awtorizzata taht l-Att dwar il-Kummerç ta' l-Assigurazzjoni biex tmexxi kummerç ta' l-assigurazzjoni:

Izda wkoll kumpannija hi projbita milli tahtar xi persuna li taġixxi f'isimha bhala intermedjarju marbut fl-assigurazzjoni biex tmexxi attivitajiet ta' intermedjarju marbut fl-assigurazzjoni li taqa' f'xi klassi jew grupp ta' klassijiet ta' kummerç ta' l-assigurazzjoni li l-awtorità kompetenti tista' minn żmien ghal żmien b'regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu tistabbilixxi li hi klassi jew grupp ta' klassijiet ta' kummerç li fihom ebda attività ta' intermedjarji marbuta fl-assigurazzjoni ma tista' titmexxa.

(2) Meta kumpannija awtorizzata tahtar u tirreġistra fir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija persuna li ma tkunx individwu, u dik il-persuna tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni minn post ta' negozju wiehed, jew iktar, dik il-persuna ghandha tiżgura li l-attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni li hekk jitmexxew minnha minn kull post bhal dak tan-negozju jitmexxew biss minn individwu li jissodisfa l-htigiet ta' subartikolu (1) ta' artikolu 35 ta' dan l-Att.

(3) Bla hsara għas-subartikoli (4) u (5) ta' dan l-artikolu, persuna, barra minn persuna msemmija fl-ewwel *proviso* għas-subartikolu (1), tista' tipprova u tikseb taht dan l-artikolu hatra u reġistrazzjoni fir-

Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' xi kumpannija awtorizzata, biex tmexxi f'isem dik il-kumpannija attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni.

(4) Meta persuna tkun tixtieq tikseb hatra u reġistrazzjoni fir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' iktar minn kumpannija wahda awtorizzata li tmexxi kummerċ fit-tul, u meta xi klassi ta' kummerċ fit-tul li jitmexxa mill-kumpanniji konċernati jkun ta' l-istess xorta, dik il-persuna għandha, dwar dik il-klassi ta' kummerċ, tipprova u tikseb hatra u reġistrazzjoni biex tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni dwar dik ix-xorta ta' kummerċ biss fir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' wahda mill-kumpanniji konċernati.

(5) Meta persuna tkun tixtieq tikseb hatra u reġistrazzjoni fir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' iktar minn kumpannija wahda awtorizzata li tmexxi kummerċ ġenerali, u meta xi klassi, jew grupp ta' klassijiet, ta' kummerċ ġenerali li jitmexxa mill-kumpanniji konċernati jkun ta' l-istess xorta, dik il-persuna għandha, dwar dik il-klassi, jew grupp ta' klassijiet, ta' kummerċ, tipprova u tikseb hatra u reġistrazzjoni biex tmexxi attivitajiet ta' intermedjarji marbut fl-assigurazzjoni dwar dik il-klassi, jew grupp ta' klassijiet, ta' kummerċ biss fir-Reġistru ta' Kumpanniji għal Intermedjarji marbuta fl-Assigurazzjoni ta' wahda mill-kumpanniji konċernati.

(6) Ebda persuna li tkun impjegat ta' kumpannija awtorizzata ma għandha, minhabba biss il-fatt li tkun impjegat mal-kumpannija, tehtieg reġistrazzjoni fir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni taht dan l-artikolu.

(7) (a) Meta l-awtorità kompetenti tilqa' applikazzjoni għall-iskrizzjoni taht dan l-artikolu, hija għandha tohrog lill-applikant konċernat ċertifikat ta' iskrizzjoni fl-għamla u bil-mod li tqis li jkun xieraq hekk li jkun prova tal-persuna reġistrata fir-Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' l-applikant fil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni.

(b) L-awtorità kompetenti f'ċirkostanzi stabbiliti skond regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu tista' tiddetermina id-dettalji li għandhom jigu nkluzi fiċ-ċertifikat ta' l-iskrizzjoni.

(8) Bla hsara għad-disposizzjonijiet ta' dan l-Att, l-awtorità kompetenti tista' tissoġġetta l-iskrizzjoni li tkun saret taht dan l-artikolu għal dawk il-kundizzjonijiet li tista' minn żmien għal żmien tqis li jkunu xierqa li timponi.



(9) Kumpannija awtorizzata tkun f'kull żmien responsabbli għal kull ghemil jew nuqqas ta' ghemil ta' l-intermedjarji marbuta fl-assigurazzjoni reġistrati tagħha kemm-il darba dak l-egħmil jew nuqqas ikun eghmil jew nuqqas li għandu x'jaqsam ma' kuntratt ta' assigurazzjoni mahruġ mill-kumpannija jew offrut f'isimha permezz tas-servizzi ta' dawk l-intermedjarji marbuta fl-assigurazzjoni. Għall-finijiet ta' dan is-subartikolu, kull referenza għal intermedjarji marbuta fl-assigurazzjoni reġistrati għandha tinkludi referenza għal intermedjarji fl-assigurazzjoni reġistrati kemm passati kif ukoll preżenti.

**38.** (1) Bla hsara għas-subartikolu (3) ta' dan l-artikolu, kull intermedjarju marbut fl-assigurazzjoni li jkollu flejjes miżmumin għandu, għandu, fir-rigward ta' polza ta' l-assigurazzjoni jżomm il-flejjes kollha li jkunu għandu f'kapacità fiduċjarja separati mill-flejjes tiegħu stess u għandu, dwar dawk il-flejjes, iżomm kontijiet separati skond htigiet stabbiliti b'regola dwar intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

Żamma ta' kontijiet separati.

(2) Ebda persuna m'għandu jkollha jew tikseb xi rimedju jew dritt dwar flejjes li jkunu bi kreditu tal-kont imsemmi fis- subartikolu (1) dwar xi talba jew dritt kontra persuna li qeghda taġixxi bhala intermedjarju marbut fl-assigurazzjoni marbuta ma' attivitajiet ta' intermedjarji fl-assigurazzjoni sakemm kull talba proprja għal dawk il-flejjes tkun ġiet sodisfatta, anki fil-każ ta' falliment ta' l-individwu jew stralċ tal-kumpannija, skond il-każ.

(3) Bla hsara għad-disposizzjonijiet ta' subartikoli (1) u (2) ta' dan l-artikolu:

(a) flejjes riċevuti minn intermedjarju marbut fl-assigurazzjoni minghand persuna dwar kuntratt ta' assigurazzjoni għandhom jiġu meqjusa li thallu lill-kumpannija li tohroġ jew toffri l-kuntratt, u li f'isem tagħha intermedjarju marbut fl-assigurazzjoni imexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni; u

(b) flejjes li thallu minn kumpannija awtorizzata lill-intermedjarju marbut fl-assigurazzjoni, u mahsuba għad-detentur ta' polza, m'għandhomx jitqiesu li thallu lil-detentur ta' polza sakemm dwak il-flejjes ikunu fil-fatt ġew riċevuti mid- detentur ta' polza ikkonċernat.

**39.** Bla hsara għad-disposizzjonijiet ta' l-artikolu 40 u għall-pattijiet u kundizzjonijiet ta' hatra ta' intermedjarju marbut fl-assigurazzjoni rilevanti f'kull żmien u għal kull raguni tkun li tkun -

Thassir ta' ismijiet mir-Reġistri ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni.

(a) kumpannija awtorizzata tista' thassar mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija l-isem ta' persuna li tkun registrata fir-registru hawn qabel imsemmi;

(b) persuna registrata fir-Registru ta' Kumpannija ghal Intermedjarji Marbuta fl-Assigurazzjoni ta' kumpannija awtorizzata tista' tapplika bil-miktub lill-kumpannija koncernata u titlob lill-kumpannija li thassarlu ismu mir-registru hawn qabel imsemmi.

Thassir ta' ismijiet mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni jew mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni.

**40.** (1) Meta kumpannija awtorizzata taghzel li thassar l-isem ta' persuna mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, il-kumpannija ghandha minnufih tavza bil-miktub lill-persuna koncernata u lill-awtorita kompetenti fejn tispeçifika d-data li fiha taghzel li thassar l-isem ta' dik il-persuna mir-registru.

(2) Meta kumpannija awtorizzata thassar l-isem ta' persuna mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija minhabba li l-persuna ma tkunx xierqa jew idonea jew minhabba li l-persuna tkun agixxiet b' mod frawdolenti, jew b' dizonestà, jew b' dak il-mod li tintilef fiha l-fiducja, il-kumpannija ghandha tavza bil-miktub lill-awtorita kompetenti bir-raġunijiet ghaliex ghamlet dan.

(3) Malli tircievi avviż minghand kumpannija awtorizzata li dik il-kumpannija tkun ghażlet li thassar l-isem ta' persuna mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, l-awtorita kompetenti ghandha -

(a) jekk it-thassir ta' dak l-isem mir-registru jkun minhabba raġunijiet li ma jkunux dawk speçifikati fis-subartikolu (2) ta' dan l-artikolu, kemm jista' jkun malajr, tikkonferma bil-miktub lill-kumpannija koncernata li isem dik il-persuna, safejn jirreferi ghal dik il-kumpannija, ghandu jithassar mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni mid-data speçifikata fl-avviż tal-kumpannija;

(b) jekk it-thassir ta' dak l-isem mir-registru jkun minhabba raġunijiet speçifikati fis-subartikolu (2) ta' dan l-artikolu, qabel ma thassar isem dik il-persuna mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, minnufih, taghti lill-persuna koncernata avviż bil-miktub li jkun jaghti r-raġunijiet ghal dak l-ghemil, u d-disposizzjonijiet ta' subartikoli (2) u (3) ta' l-artikolu 17 ta' dan l-Att ghandhom ikunu *mutatis mutandis* japplikaw ghall-avviż moghti taht dan l-artikolu.

(4) Bla hsara għal kull azzjoni li l-awtorità kompetenti jidhriha xieraq tiehu taht dan l-Att jew taht xi liġi oħra, meta l-awtorità kompetenti thassar l-isem ta' persuna mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni għal raġunijiet speċifikati fis-subartikolu (2) ta' dan l-Att, l-awtorità kompetenti tista' tagħti pubbliċità għat-thassir ta' dak l-isem mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, u -

(a) jekk isem dik il-persuna ikun reġistrat fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' xi kumpannija oħra, l-awtorità kompetenti għandha wkoll minnufih tavża bil-miktub lil dik il-kumpannija l-oħra u tordnalha li thassar l-isem ta' dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' dik il-kumpannija minnufih u tagħti lill-kumpannija r-raġunijiet għal dik l-ordni;

(b) jekk l-awtorità kompetenti tagħzel li tagħti pubbliċità għat-thassir ta' dak l-isem mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, l-awtorità kompetenti għandha tippubblika avviz li jagħti pubbliċità għal dak it-thassir b'mod li jidhriha xieraq.

(5) L-awtorità kompetenti jkollha s-setgħa tordna li l-ispejjeż kollha li jsiru bil-pubblikazzjoni ta' avviz skond ma hemm f' dan l-artikolu, jew ta' parti minnhom hekk kif tista' tqis li jkun xieraq, għandhom jithallsu mill-persuna konċernata; u kull ammont hekk dovut għandu jingabar mill-awtorità kompetenti bl-istess mod bħalma tingabar penali amministrattiva li tiġi imposta taht dan l-Att.

(6) Meta kumpannija awtorizzata tirċievi applikazzjoni bil-miktub mingħand persuna reġistrata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija li tkun qiegħda tehtieg lill-kumpannija li thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, il-kumpannija għandha mingħajr ebda dewmien thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija filwaqt li tavża bil-miktub lill-persuna konċernata u lill-awtorità kompetenti billi wkoll tispeċifika d-data meta tagħzel li thassar isem dik il-persuna mir-registru.

(7) Meta, wara li ssir applikazzjoni lil kumpannija awtorizzata taht is-subartikolu (6) ta' dan l-artikolu, il-kumpannija tirrifjuta, jew indebitament iġġebbed il-proċess, li thassar isem il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, il-persuna konċernata tista' tirreferi l-kwistjoni lill-awtorità kompetenti u l-awtorità kompetenti għandha toħroġ bil-miktub lill-kumpannija konċernata dawk id-direttivi li tqis xierqa biex iġġieghel lill-kumpannija li tghaġġel il-proċess ta' thassir ta' l-isem ta' dik il-persuna

mir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija.

(8) Malli jinghata avviz mill-awtorità kompetenti lil kumpannija awtorizzata li isem persuna reġistrata fir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-assigurazzjoni tal-kumpannija jkun thassar mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, il-kumpannija konċernata għandha minnufih tagħti lura lill-awtorità kompetenti ċ-ċertifikat ta' iskrizzjoni dwar dik il-persuna, u kull kopja uffiċjali li jkollha ta' dak iċ-ċertifikat.

Tharis ta' l-interess  
pubbliku jew  
interess ieħor.

**41.** (1) Minkejja kull disposizzjoni ta' dan l-Att, l-awtorità kompetenti tista', f'kull żmien, minhabba f'nuqqas ta' idoneità jew improprietà jew tat-tharis ta' l-interess pubbliku -

(a) tirrifjuta l-iskrizzjoni ta' persuna fuq il-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni;

(b) thassar l-isem ta' persuna mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni:

Iżda f'kull każ, l-awtorità kompetenti għandha tavża lill-kumpannija konċernata bil-miktub bir-raġunijiet għaliex għamlet hekk.

(2) F'kull każ l-awtorità kompetenti tista' tiehu kull miżura oħra li jidhirlha meħtieġa biex thares l-interessi ta' l-assigurati, detenturi ta' polza, kredituri jew persuni interessati oħra.

Restituzzjoni ta'  
isem imhassar mil-  
Lista ta'  
Intermedjarji  
Marbuta fl-  
Assigurazzjoni.

**42.** Meta skond l-artikolu 40 ta' dan l-Att l-isem ta' persuna jkun thassar mil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni -

(a) għal raġunijiet li jinsabu fis-subartikolu (2) ta' dak l-artikolu, l-isem ta' dik il-persuna għandu, meta ssir applikazzjoni minn kumpannija awtorizzata, jerga' jkun iskrutt fil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni fuq ordni tat-Tribunal jew il-liberazzjoni minn akkużi ta' reat taht dak is-subartikolu minn xi qorti;

(b) għal raġunijiet li ma jkunux dawk li jinsabu fis-subartikolu (2) ta' dak l-artikolu, l-isem ta' dik il-persuna jista', ma' l-applikazzjoni minn kumpannija awtorizzata, jerga' ikun iskrutt fil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni.

**43.** (1) Bla hsara ghas-subartikolu (2) ta' dan l-artikolu, għall-fini ta' din il-Parti ta' dan l-Att "kumpannija awtorizzata" ma tinkludjex impriži ta' l-assigurazzjoni Ewropej.

Applikazzjoni ta' Taqsima VIII ta' l-Att u l-impriži ta' l-assigurazzjoni Ewropej.

(2) Fil-każ ta' impriża ta' l-assigurazzjoni Ewropea li tkun qeghda tftitex biex tahtar persuna residenti Malta jew li għandha l-uffiċċju reġistrat jew, f'każ ta' persuna ġuridika hija reġistrata, jew l-uffiċċju prinċipali tagħha jkun, f'Malta, sabiex tmexxi attivitajiet ta' intermedjarji marbuta fl-assigurazzjoni, dik l-impriża għandha tagħmel l-iskrizzjoni ta' dik il-persuna ma' l-awtorità kompetenti, kif jiista' jkun imsemmi f'regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu u l-imsemmija regola għandu jkun fiha l-partikolaritajiet, kundizzjonijiet u htigiet ta' l-iskrizzjoni.

## TAQSIMA IX

### DISPOZZJONIJIET ĠENERALI

**44.** (1) Kull persuna reġistrata jew iskritta għandha tavża bil-miktub lill-awtorità kompetenti b'kull tibdil materjali fid-dokumentazzjoni provduta jew meħtieġa li tkun provduta b'dan l-Att jew tahtu jew b'xi regolamenti magħmula bis-saħħa tiegħu jew b'xi regola dwar intermedjarji fl-assigurazzjoni, malli ssir taf b'dak it-tibdil.

Tibdil fid-dokumentazzjoni.

(2) Bla hsara għall-artikolu 54 ta' dan l-Att, safejn jirreferi għall-artikolu 38 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, kull persuna iskritta li tkun kumpannija lokali għandha -

(a) qabel ma tagħmel xi żieda jew tibdil fil-memorandum jew fl-artikoli ta' assoċjazzjoni jew f'xi strument ieħor li jikkostitwixxi l-kumpannija, tissottometti bil-miktub lill-awtorità kompetenti dettalji taż-żieda jew tibdil propost għall-kunsens tagħha minn qabel; u ebda żieda jew tibdil bħal dawk ma għandhom jsiru jew ikunu reġistrati jew jibdew jsehhu, sew jekk ikun reġistrata sew jekk ma tkunx, kemm-il darba u sakemm l-awtorità kompetenti ma tkunx uriet il-kunsens tagħha bil-miktub; u

(b) tgharraf lill-awtorità kompetenti bl-ismijiet tal-persuni li jkollhom *holding* kwalifikattiv ta' azzjonijiet fil-kumpannija u l-perċentwali ta' dak il-*holding*; u l-awtorità kompetenti tista', b'regola dwar l-intermedjarji fl-assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabbilixxi xi forma, l-mod u kontenut ta' l-informazzjoni li għandha tintgħatalha u d-data sa meta għandha tinbagħat dik l-informazzjoni għandha ukoll tiġi stabbilita f'dik ir-regola.

(3) Bla hsara ghad-disposizzjonijiet ta' qabel ta' dan l-artikolu, kull persuna iskritta taht Taqsima III ta' dan l-Att ghandha tavza lill-awtorità kompetenti fuq baži kontinwa, b'kull tibdil jew ċirkostanza li tista' tohloq l-eżistenza ta' rabtiet mill-qrib skond kif imfisser fl-artikolu 10 ta' dan l-Att.

Koperazzjoni fi dmirijiet ta' sorveljanza u fl-skambju ta' informazzjoni.

**45.** (1) L-awtorità kompetenti tista' teżercita s-setgħat li ġejjin fuq it-talba ta' awtorità regolatorja barranija jew sabiex tassistiha -

(a) is-setgħa li timponi, tirrevoka jew tvarja kondizzjonijiet ma' l-ghoti ta' iskrizzjoni skond id-disposizzjonijiet ta' subartikolu (4) ta' l-artikolu 13 ta' dan l-Att;

(b) is-setgħa li tissospendi jew thassar l-isem ta' persuna iskritta mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew ta' persuna iskritta mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* taht l-artikolu 16 ta' dan l-Att;

(ċ) is-setgħa li thassar l-isem ta' intermedjajru marbut fl-assigurazzjoni mill-Lista ta' l-Intermedjajri Marbuta fl-Assigurazzjoni iskritta taht l-artikolu 41 ta' dan l-Att;

(d) is-setgħa li tiehu kull azzjoni taht l-artikoli 29, 30 u 31 jew 31A ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, kif applikabbli skond l-artikolu 54 ta' dan l-Att;

(e) is-setgħa li tikkomunika ma' awtorità regolatorja barranija informazzjoni li tkun fil-pussess tagħha, sew jekk dik l-informazzjoni tkun riżultat ta' xi wahda mis-setgħat ta' hawn fuq jew xort'ohra.

(2) L-awtorità kompetenti ghandha teżercita l-poteri bis-sahha ta' dan l-artikolu:

(a) meta tintalab l-assistenza mill-awtorità regolatorja barranija għall-finijiet ta' l-eżercizzju ta' xi wahda jew aktar mill-funzjonijiet regolatorji tagħha; jew

(b) meta jkun hekk mehtieġ fil-parametri ta' rabtiet internazzjonali ta' Malta; jew

(ċ) meta jkun hekk mehtieġ skond it-termini ta' l-obbligazzjonijiet assunti fi trattati bilaterali jew multilaterali għall-bdil ta' informazzjoni u forom ohra ta' kollaborazzjoni ma'

awtoritajiet regolatorji barranin inkluża talba taht *memorandum of understanding* konkluz ma' l-awtorità kompetenti.

(3) Ghandu jkun hemm laqgħat bejn kumpannija awtorizzata, l-intermedjarju fl-assigurazzjoni, l-uditur approvat tagħha u l-awtorità kompetenti, fuq bażi bilaterali jew multilaterali kif jehtieġu ċ-ċirkostanzi. Dawk il-laqgħat jistghu jissejhu minn kull waħda mill-partijiet, u għandhom f'kull każ ikunu preseduti mill-awtorità kompetenti.

**46.** (1) Ebda haġa f'dan l-Att ma tawtorizza lill-awtorità kompetenti biex tinvestiga jew iġġieghel li ssir investigazzjoni fuq persuna iskritta fl-affarijiet ta' klijent individwali ta' persuna iskritta hlief sabiex jiġi żgurat li jkun hemm tharis tad-disposizzjonijiet ta' dan l-Att jew ta' xi Att iehor. Konfidenzjalità.

(2) Bla hsara għad-disposizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, informazzjoni minn xi persuna għall-finijiet ta', jew konformement ma', xi disposizzjonijiet ta' dan l-Att, jew ta' xi regolamenti magħmulin tahtu, jew ta' xi regola dwar l-intermedjarji fl-assigurazzjoni, jew fit-twettiq ta' xi funzjonijiet taht xi waħda mid-disposizzjonijiet imsemmija, jew minn xi awtorità regolatorja barranija, għandha tiġi ttrattata bħala kunfidenzjali u protetta mid-dmir ta' segretezza professjonali, u m'għandhiex tiġi żvelata lil xi persuna oħra, li ma tkunx persuna li tkun tista' tikseb dik l-informazzjoni skond il-liġi għall-finijiet ta', jew konformement ma', id-disposizzjonijiet ta' dan l-Att, jew ta' xi regolamenti magħmulin tahtu jew ta' regola dwar l-intermedjarji fl-assigurazzjoni hlief bil-kunsens tal-persuna li mingħandha tinkiseb l-informazzjoni, sakemm dik l-informazzjoni tkun unikament tirrigwarda lil dik il-persuna.

(3) Id-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu ma għandhomx jipprekludu l-iżvelar ta' informazzjoni -

(a) bil-għan li jinbdew, jew xort'oħra għall-finijiet ta', procedimenti kriminali jew ta' xi procedimenti mill-awtorità kompetenti quddiem xi qorti taht dan l-Att;

(b) bil-għan li l-awtorità kompetenti tkun tista' jew tigi assistita fil-qadi jew fit-twettiq ta' xi funzjonijiet tagħha taht dan l-Att;

(ċ) li tkun saret disponibbli lill-pubbliku għax tkun ġiet żvelata f'xi ċirkostanzi li fihom, jew għal xi fini li dwaru, l-iżvelar ma jkunx prekluz b'dan l-artikolu;

(d) f'sommarju jew gabra ta' informazzjoni kompilata b'dak il-mod li ma tkunx tista' tiġi aċċertata l-identità ta' xi persuna li l-informazzjoni tkun tirrigwardaha;

(e) lil xi uditur meta l-awtorità kompetenti tkun tqis li dak l-iżvelar ikun jgħin lill-awditur fl-eżerċizzju tal-funzjonijiet tiegħu taht l-artikolu 28 ta' dan l-Att;

Kap. 345.

(f) lill-Bank Ċentrali ta' Malta jew lil-*Listing Authority* taht l-Att dwar is-Swieq Finanzjarji, meta dik l-informazzjoni tkun mehtieġa mill-Bank jew mil-*Listing Authority* fl-eżerċizzju tal-funzjonijiet rispettivi tagħhom skond il-liġi;

(g) b'risposta għal xi talba minghand jew għall-fini ta' assistenza li tinghata lil awtorità regolatorja barranija konformement ma' l-artikolu 45 ta' dan l-Att;

(h) lil dawk l-awtoritajiet ohra regolatorji, ġudizzjarji jew ta' infurzar, kemm lokali kemm barranin, meta dak l-iżvelar ikun mehtieġ jew jintalab għall-prosegwiment ta' kwistjonijiet regolatorji serji jew qerq, prevenzjoni jew prosekuzzjoni ta' reati kriminali;

(i) fi proċedimenti ċivili jew kummerċjali fir-rigward tal-falliment, xoljiment jew stralċ obligat ta' intermedjarju fl-assigurazzjoni sakemm dik l-informazzjoni ma tkunx tirrigwarda terzi involuti f'tentattivi li jlliberaw lil dak l-intermedjarju fl-assigurazzjoni, u lil dawk il-korpi barranin responsabbli għal likwidazzjoni u l-falliment ta' xi persuna li tkun reġistrata jew li jkollha awtorizzazzjoni jew liċenza ekwivalenti minn xi awtorità regolatorja barranija jew proċeduri simili ohra.

(4) Ebda persuna, inklużi uffiċjali jew aġenti ta' l-imġhoddi jew tal-preżent ta' persuna iskritta, ma għandha tixxi xi informazzjoni dwar l-affarijiet ta' persuna iskritta jew ta' klijent ta' persuna iskritta li hija tkun kisbet fil-qadi tad-dmirijiet tagħha jew fl-eżerċizzju tal-funzjonijiet tagħha skond dan l-Att hlief -

(a) meta tkun awtorizzata biex tagħmel hekk skond xi waħda mid-disposizzjonijiet ta' dan l-Att;

(b) għall-qadi tad-dmirijiet tagħha jew għall-eżerċizzju tal-funzjonijiet tagħha;

(ċ) meta tkun mehtieġa biex tagħmel hekk minn xi qorti jew skond xi disposizzjoni ta' xi liġi.



(5) F'dan l-artikolu, il-frazi "aġenti", dwar persuna iskritta, tfiggiser u tinkludi l-bankiera u l-uditur tal-persuna iskritta.

(6) Meta uffiċjal jew impjegat ta' kumpannija iskritta, jew persuna reġistrata jew iskritta, jew uffiċjal jew impjegat ta' dik il-persuna, ikollha għalfejn taħseb li xi attività jew attività proposta tista' tinvolvi *money laundering*, din tkun obbligata timxi skond ir-regolamenti maħruġa taht l-Att kontra *Money Laundering* u skond linji ta' gwida magħmula mill-awtorità kompetenti. It-tħaris tad-disposizzjonijiet ta' dan is-subartikolu ma jikkostitwix ksur ta' konfidenzjalità.

**47.** (1) Ir-Registru ta' l-Aġenti, ir-Registru tal-*Managers* jew ir-Registru tal-*Brokers* u il-Lista ta' l-Aġenti, il-Lista tal-*Managers* jew il-Lista tal-*Brokers* u il-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni għandhom ikunu aċċessibli għal-pubbliku, mingħajr hlas, fl-uffiċċju ta' l-awtorità kompetenti fil-hinijiet kollha matul il-hinijiet normali tax-xogħol ta' l-awtorità kompetenti.

Access għar-registri u listi mill-pubbliku.

(2) Kull persuna tista', mal-hlas ta' dak id-dritt li jista' jiġi ordnat, tikseb mingħand l-awtorità kompetenti estratti mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew ta' persuna iskritta mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* u mil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni kopji uffiċjali ta' ċertifikati ta' reġistrazzjoni jew iskrizzjoni.

(3) Ir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' kull kumpannija awtorizzata taht l-Att dwar il-Kummerċ ta' l-Assigurazzjoni għandu jkun miftuħ biex jispezzjonah il-pubbliku, mingħajr hlas, fl-uffiċċju prinċipali tal-kumpannija awtorizzata konċernata matul il-hinijiet normali tax-xogħol tal-kumpannija.

**48.** (1) Bla hsara għad-disposizzjonijiet li ġejjin ta' dan l-artikolu, hlief bil-permess bil-miktub ta' l-awtorità kompetenti, ebda persuna barra minn -

Użu tal-kelma "assigurazzjoni".

(a) persuna reġistrata fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers* taht l-artikolu 13; jew

(b) persuna iskritta fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers* taht dak l-artikolu; jew

(ċ) persuna iskritta fil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni taht l-artikolu 36; jew

(d) kumpannija awtorizzata taht l-Att dwar il-Kummerç ta' l-Assigurazzjoni; jew

(e) persuna li jkollha kwalifiki ta' assigurazzjoni minn istitut ta' reputazzjoni maghruf ghal dak l-ghan mill-awtorità kompetenti; jew

(f) istitut ta' reputazzjoni illi jipprovdi tagħlim fl-istudji dwar il-kummerç ta' l-assigurazzjoni u hu maghruf ghal dan il-ghan mill-awtorità kompetenti; jew

(g) persuna ordnata b'regolamenti maghmula taht dan l-Att,

ma ghandha tuża l-kelma "assigurazzjoni" bhala parti minn isimha jew bhala d-deskrizzjoni jew titolu tagħha jew tagħmel xi użu bhal dak fuq xi ittra, karta, f'xi avviz jew reklam, jew b'xi mod iehor ikun li jkun.

(2) Kull kumpannija barranija iskritta jew awtorizzata kif hawn qabel imsemmi tista' tuża l-isem użat fil-pajjiż fejn tkun registrata, inkorporata jew kostitwita hlief li, fejn ikun hemm riskju li l-użu ta' dak l-isem jista' jqarraq, dik il-kumpannija ghandha żżid ma' isimha dawk il-partikolaritajiet spjegattivi li tordna l-awtorità kompetenti.

(3) L-awtorità kompetenti tista', b'regola dwar intermedjarji fl-assigurazzjoni maghmula għall-fini ta' dan l-artikolu, tistabbilixxi l-kwalifiki u l-esperjenza biex tmexxi l-attivitajiet ta' intermedjarji fl-assigurazzjoni, barra mill-persuni msemmija fis-subartikoli ta' qabel ta' dan l-artikolu, jehtieg li jkollhom biex, b'applikazzjoni lill-awtorità kompetenti, jkunu jistgħu jinghataw permess taht dan l-artikolu sabiex jużaw il-kelma "assigurazzjoni" bhala parti minn isimhom jew bhala d-deskrizzjoni jew titolu tagħhom.

(4) Għall-finijiet ta' dan l-artikolu, l-espressjoni "assigurazzjoni" tinkludi rijassigurazzjoni, *assurance* u *reassurance* u kull derivattivi tagħhom jew kliem iehor li jistgħu juru jew jimplikaw li juru t-tmexxija ta' kummerç ta' assigurazzjoni jew it-tmexxija ta' attivitajiet intermedjarji fl-assigurazzjoni jew it-tmexxija ta' dak il-kummerç jew it-tmexxija ta' dawk l-attivitajiet b'xi lingwa fid-deskrizzjoni jew fit-titolu li tahtu persuna tkun qed tmexxi dak il-kummerç jew tmexxi dawk l-attivitajiet.

Notifika ta' avvizi, eċċ.

**49.** Avviz jew dokument iehor li ghandu jinghata jew ikun notifikat taht dan l-Att jew xi regolamenti maghmula bis-sahha tiegħu ghandu jitqies li ngħata jew gie notifikat b'mod xieraq lil persuna jekk -

- (a) ikun konsenjat lilha; jew
- (b) ikun thalla fl-indirizz moghti minnha lill-awtorità kompetenti, jew fl-indirizz l-ahhar maghruf taghha; jew
- (ċ) ikun intbaghtilha bil-posta jew bil-*fax* f'xi wiehed mill-indirizzi hawn qabel imsemmija; jew
- (d) fil-każ ta' soċjetà kummerċjali reġistrata f'Malta, ikun konsenjat, intbaghat bil-posta jew bit-*telefax*, jew thalla fl-uffiċċju reġistrat, jew fl-uffiċċju reġistrat l-ahhar maghruf, ta' dik is-soċjetà kummerċjali; jew
- (e) fil-każ ta' xi korp iehor ta' persuni, sew jekk korporat sew mhux korporat, ikun inghata jew gie notifikat b'xi mod hawn qabel imsemmi lil direttur, uffiċjal, skrivan jew lir-rappreżentant ta' dak il-korp.

**50.** (1) (a) Għall-fini ta' kull appell magħmul lit-Tribunal taht dan l-Att, għandhom japplikaw id-disposizzjonijiet tal-proviso għas-subartikolu (1) ta' l-artikolu 57 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni. Appelli.

(b) Għall-finijiet ta' kull appell bhal dak, id-disposizzjonijiet ta' l-artikolu 21 ta' l-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw ukoll.

(2) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, kull persuna jew kumpannija li, thossha aggravata b'deċiżjoni ta' l-awtorità kompetenti -

- (a) li tirrifjuta li tirreġistra jew tiskrivi applikant taht l-artikolu 13 jew 41;
- (b) li timponi xi kundizzjoni fuq, jew sussegwenti għal, reġistrazzjoni u iskrizzjoni taht l-artikolu 13 jew 37 ta' dan l-Att;
- (ċ) li thassar l-isem ta' persuna mir-Registru ta' l-Aġenti, mir-Registru tal-*Managers* jew mir-Registru tal-*Brokers* jew ta' persuna iskritta mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* taht l-artikolu 16 ta' dan l-Att;
- (d) li tirrifjuta li tirrestitwixxi l-isem ta' persuna fir-Registru ta' l-Aġenti, fir-Registru tal-*Managers* jew fir-Registru tal-*Brokers*

jew ta' persuna iskritta fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Broker* taht subartikolu (2) ta' l-artikolu 18 ta' dan l-Att;

(e) li tirrifjuta li tirreġistra xi *underwriting agreement* taht l-artikolu 32 ta' dan l-Att;

(f) li thassar l-isem ta' persuna mil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni skond paragrafu (b) ta' subartikolu (3) ta' l-artikolu 40 ta' dan l-Att;

(g) li tehtieg kumpannija awtorizzata taht l-Att dwar il-Kummerç ta' l-Assigurazzjoni li thassar l-isem ta' persuna mir-Reġistru tal-Kumpanniji għall-Intermedjarji Marbuta fl-Assigurazzjoni ta' xi kumpannija taht l-artikolu 41 ta' dan l-Att;

(h) li timponi penali amministrattiva dwar infrazzjonijiet kif jista' jiġi ordnat taht l-artikolu 3 ta' dan l-Att,

tista' tappella kontra d-deċiżjoni lit-Tribunal li jkollu l-kompetenza esklużiva li jisma' appelli fuq il-hwejjeġ imnizzlin f'dan is-subartikolu.

(3) Appell taht dan l-artikolu jista' jsir biss fuq il-bażi ta' xi wahda minn dawn li ġejjin:-

(a) l-awtorità kompetenti tkun applikat hażin xi wahda mid-disposizzjonijiet ta' dan l-Att; jew

(b) id-deċiżjoni ta' l-awtorità kompetenti tikkostitwixxi abbuż ta' diskrezzjoni jew li tkun manifestament ingusta, iżda d-diskrezzjoni ta' l-awtorità kompetenti ma tistax, la darba tkun giet eżerċitata b'mod xieraq, tkun mistharrġa mit-Tribunal.

(4) Appell magħmul taht dan l-artikolu ma għandux jissospendi l-eżekuzzjoni ta' xi deċiżjoni li minnha jkun sar l-appell hlief fil-każ ta' appell minn deċiżjoni msemmija f'paragrafu (h) tas-subartikolu (2) ta' dan l-artikolu:

Iżda, deċiżjoni biex jithassar isem ta' persuna mir-Reġistru ta' l-Aġenti, mir-Reġistru tal-*Managers* jew mir-Reġistru tal-*Brokers* jew mil-Lista ta' l-Aġenti, mil-Lista tal-*Managers* jew mil-Lista tal-*Brokers* m'għandhiex tidhol fis-sehh sakemm jghaddi ż-żmien li fih jista' jsir appell skond dan l-artikolu u, jekk isir appell f'dak iż-żmien,

id-deċiżjoni ssir operattiva fid-data tad-deċiżjoni li fiha t-Tribunal jiċhad l-appell jew li fiha l-appell ikun abbandunat.

**51.** L-awtorità kompetenti u kull membru, uffiċjal jew impjegat ta' l-awtorità kompetenti, u kull persuna mahtura biex taqdi funzjoni taht dan l-Att jew regolamenti maghmula bis-sahha tieghu ma jkunux responsabbli għal xi danni dwar xi haġa li tkun saret jew li naqset milli ssir fil-qadi jew f'dak li jidher li jkun il-qadi ta' xi funzjonijiet taht dan l-Att, jew xi regolamenti kif hawn qabel imsemmi, kemm-il darba l-għemil jew in-nuqqas ma jintwerix li jkun sar jew naqas milli jsir, skond il-każ, b'*mala fede*.

Esklużjoni ta' responsabbiltà.

**52.** (1) Kull persuna -

Reati.

(a) li sabiex tikseb r-registrazzjoni jew l-iskrizzjoni taht dan l-Att jew skond xi regolamenti maghmula bis-sahha tieghu taghti informazzjoni jew tagħmel stqarrija jew dikjarazzjoni li tkun taf li mhux preċiża, falza jew qarrieqa f'xi partikular materjali, jew li bi traskuraġni taghti informazzjoni jew tagħmel stqarrija jew dikjarazzjoni li tkun mhux preċiża, falza jew qarrieqa f'xi partikular materjali, jew

(b) li tikser jew tonqos li thares xi disposizzjonijiet ta' dan l-Att, jew ta' l-artikolu 29, 30, 31A jew 38 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni kif applikabbli skond l-artikolu 54 ta' dan l-Att;

(ċ) li tikser jew tonqos li thares xi regolamenti maghmula taht dan l-Att; barra minn regolamenti li dwarhom ikunu ordnati penalitajiet amministrattivi taht il-paragrafu (h) tas-subartikolu (2) ta' l-artikolu 3 ta' dan l-Att;

(d) li tikser jew tonqos li thares xi regola dwar l-intermedjarji fl-assigurazzjoni jew xi kundizzjoni ta' registrazzjoni jew iskrizzjoni;

(e) li tonqos li thares xi ordni legittimu jew htieġa legittima ta' l-awtorità kompetenti;

(f) li tonqos li thares xi ordni legittimu jew htieġa legittima ta' xi persuna oħra maghmula taht dan l-Att u taht xi regolamenti maghmula bis-sahha tieghu;

(g) li minghajr raġuni xierqa tibdel, iżżomm, tahbi, tiddistruġgi jew tirrifjuta li tipproduċi xi dokument li hu legittimament mehtieg li jiġi provdut minn xi persuna taht dan l-Att jew xi regolamenti maghmula bis-saħha tiegħu; jew

(h) li bir-rieda tfixkel persuna li tkun qed teżercita d-drittijiet mogħtija b'dan l-Att jew b'xi regolamenti maghmula bis-saħha tiegħu,

tkun hatja ta' reat.

(2) Kull persuna li xjentement tipparteċipa fi, jew tippokura jew tghin jew thajjar l-egħmil ta' reat taht is-subartikolu (1) tkun hatja ta' reat u tista' tehel l-istess pieni bħall-awtur tar-reat.

(3) Il-Ministru għandu jagħmel regolamenti taht dan l-artikolu li jippreskrivu penalitajiet għal reati kontra dan l-Att, u dawk ir-regolamenti jistgħu jippreskrivu -

(a) penalitajiet li jistgħu jiġu nfurzati fil-qrati ta' Malta;

(b) penalitajiet differenti għal kontravvenzjonijiet ta' disposizzjonijiet differenti ta' dan l-Att;

(c) penalitajiet kalkolati skond kemm idum l-egħmil tar-reat,

kemm-il darba dawk il-penalitajiet ma jkunux xort'ohra imposti taht l-artikolu 3 ta' dan l-Att.

Pieni.

**53.** (1) Il-penalitajiet ordnati b'regolamenti maghmula taht l-artikolu 52 ta' dan l-Att -

(a) fil-każ ta' prigunerija, ma għandhomx jipprovdu għal sentenza ta' prigunerija li tkun iktar minn sentejn;

(b) fil-każ ta' penali mposta wara prosekuzzjoni fil-qrati ta' Malta, ma għandhomx jipprovdu għal multa ta' inqas minn mitt lira u iktar minn hamsin elf lira Maltija;

(c) fil-każ ta' reat kontinwat, ma għandhomx jipprovdu għal multa ta' inqas minn hamsin lira jew iktar minn mitt lira għal kull jum li matulu r-reat ikompli.

(2) Ebda proċedimenti għal reat taht dan l-Att jew xi regolament magħmul tahtu, hliet għal infrazzjonijiet li għalihom japplika paragrafu (h) tas-subartikolu (2) ta' l-artikolu 3, ma jistgħu jinbdeu mingħajr il-kunsens ta' l-Avukat Ġenerali.

(3) Id-disposizzjonijiet ta' dan l-Att m'għandhomx jolqtu xi proċedimenti kriminali li jistgħu jittiehdu taht xi liġi oħra.

**54.** (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu:

Applikazzjoni ta' xi artikoli ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni għal intermedjarji fl-assigurazzjoni.

Kap. 403.

(a) id-disposizzjonijiet ta' l-artikoli 29 sa 31A u ta' l-artikolu 38 ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni (hawnhekk iżjed 'il quddiem f'dan l-artikolu msejjaħ "l-Att") għandhom japplikaw għal persuna iskritta, bhallikieku riferenza f'dawk id-disposizzjonijiet –

(i) għal "awtorizzazzjoni" kienet riferenza għal "iskrizzjoni fil-Lista ta' l-Aġenti, fil-Lista tal-*Managers* jew fil-Lista tal-*Brokers*";

(ii) għal "kumpannija awtorizzata" kienet riferenza għal "persuna iskritta";

(iii) għal "kummerċ ta' l-assigurazzjoni" kienet riferenza għal "attivitajiet ta' intermedjarju fl-assigurazzjoni";

(iv) għal "kumpannija li jkollha l-uffiċċju prinċipali tagħha f'pajjiż barra minn Malta" kienet riferenza għal "kumpannija barranija"; u

(b) l-artikoli 29 sa 31A ta' l-Att għandhom japplikaw għal persuna iskritta fil-Lista ta' l-Intermedjarji Marbuta fl-Assigurazzjoni bhallikieku riferenza f'dawk id-disposizzjonijiet:

(i) għal "awtorizzazzjoni" kienet riferenza għal "iskrizzjoni fil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni";

(ii) għal "kumpannija awtorizzata" kienet riferenza għal "intermedjarju fl-assigurazzjoni marbuta";

(iii) għal “kummerċ ta’ l-assigurazzjoni” kienet riferenza għal “attivitajiet ta’ intermedjarji marbuta fl-assigurazzjoni”.

(2) Is-subartikolu (1) għandu jkun japplika għal persuna iskritta bhallikieku riferenza fid-disposizzjonijiet rilevanti ta’ l-Att għal “l-awtorità kompetenti” kienet riferenza għal “l-awtorità kompetenti” taht dan l-Att, u riferenzi għal “regola dwar l-assigurazzjoni” kienu riferenzi għal “regola dwar l-intermedjarji fl-assigurazzjoni”.

Thassir u Riżervi.  
Kap. 404.

**55.** (1) Bla hsara għad-disposizzjonijiet tas-subartikoli li ġejjin ta’ dan l-Att, l-Att dwar il-*Brokers* fl-Assigurazzjoni u Intermedjarji ohra, qiegħed b’dan jiġi mħassar.

(2) Kull liċenzja mahruġa jew kull azzjoni ohra tkun li tkun ittiehdet jew inbdiet taht l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, safejn japplika għal aġenti u *l-managers* fl-assigurazzjoni, jew taht l-Att dwar il-*Brokers* fl-Assigurazzjoni u Intermedjarji Ohra, għandhom ikomplu japplikaw, u jibqghu validi, daqslikieku dik il-liċenzja kienet mahruġa jew daqslikieku dik l-azzjoni l-ohra kienet mehuda jew mibdija taht dan l-Att.

(3) Kull persuna jew kumpannija li jkollha liċenzja taht l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni biex taġixxi bhala aġent fl-assigurazzjoni jew bhala *manager* fl-assigurazzjoni hekk kif mfisser f’dak l-Att jew taht l-Att dwar il-*Brokers* fl-Assigurazzjoni u Intermedjarji Ohra biex taġixxi bhala *broker* fl-assigurazzjoni jew sotto-aġent fl-assigurazzjoni hekk kif mfisser fl-aħhar Att hawn qabel msemmi, għandha, mhux iktar tard mid-data stabbilita, thares id-disposizzjonijiet ta’ dan l-Att jew inkella tieqaf milli taġixxi bhala intermedjarju fl-assigurazzjoni, u għandha, sad-data stabbilita jew sakemm thares id-disposizzjonijiet ta’ dan l-Att, skond liema jiġi l-ewwel, tkompli tkun regolata mid-disposizzjonijiet ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni jew l-Att dwar il-*Brokers* fl-Assigurazzjoni u Intermedjarji Ohra, skond il-każ. Għall-finijiet ta’ dan is-subartikolu “id-data stabbilita” tfisser jum li jiġi sitt xhur wara d-data tal-bidu fis-sehħ ta’ dan l-Att.

(4) Meta kumpannija tieqaf milli taġixxi bhala aġent fl-assigurazzjoni, *manager* fl-assigurazzjoni jew *broker* fl-assigurazzjoni minhabba li dik il-kumpannija ma tharsitx, fid-data stabbilita, id-disposizzjonijiet ta’ dan l-Att, dik il-kumpannija għandha titqies li tkun għamlet applikazzjoni lill-awtorità kompetenti taht l-artikolu 26 ta’ dan l-Att fid-data stabbilita biex tieqaf milli tkompli attivitajiet ta’



intermedjarja fl-assigurazzjoni minn dik id-data u li jkun inharġilha permess mill-awtorità kompetenti taht dak l-artikolu fid-data stabbilita biex tieqaf milli tmexxi dak il-kummerċ minn dik id-data u biex taghmel *run-off* ta' dak il-kummerċ ukoll minn dik id-data. L-awtorità kompetenti tista' timponi dawk il-kundizzjonijiet dwar *run off* ta' dak il-kummerċ skond kif jidhrilha xieraq.

(5) Meta persuna tieqaf milli taġixxi bhala *broker* fl-assigurazzjoni reġistrat minhabba li dik il-persuna ma harsitx, fid-data stabbilita, id-disposizzjonijiet ta' dan l-Att -

(a) dik il-persuna ghandha titqies li tkun ghamlet talba lill-awtorità kompetenti taht il-paragrafu (e) ta' l-artikolu 16 ta' dan l-Att fid-data stabbilita, biex titlob lill-awtorità kompetenti thassar isimha mir-reġistru hawn qabel imsemmi f' dik id-data;

(b) l-awtorità kompetenti tkun meqjusa li tkun hassret l-isem ta' dik il-persuna mir-Reġistru tal-*Brokers* f' dik id-data, u f' dik id-data wkoll, innotifikat lil dik il-persuna li isimha thassar mir-Reġistru tal-*Brokers*; u dik il-persuna, ghandha minnufih, wara d-data stabbilita, taghti lura lill-awtorità kompetenti ċ-ċertifikat ta' reġistrazzjoni u kull kopja ufficjali li jkollha ta' dak iċ-ċertifikat.

(6) Meta persuna tieqaf milli taġixxi bhala sotto-aġent fl-assigurazzjoni minhabba li dik il-persuna ma harsitx, fid-data stabbilita, id-disposizzjonijiet ta' dan l-Att -

(a) dik il-persuna ghandha titqies li tkun ghamlet applikazzjoni lill-kumpannija awtorizzata, li isimha hu reġistrat fir-Registru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, taht il-paragrafu (b) ta' l-artikolu 39 ta' dan l-Att, fid-data stabbilita, titlob lill-kumpannija biex thassar isimha mir-reġistru hawn qabel imsemmi f' dik id-data;

(b) il-kumpannija awtorizzata koncernata tkun meqjusa li tkun hassret l-isem ta' dik il-persuna mir-Reġistru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija f' dik id-data, u f' dik id-data wkoll, innotifikat lil persuna u lil awtorità kompetenti skond hekk, taht is-subartikolu (6) ta' l-artikolu 40 ta' dan l-Att;

(ċ) l-awtorità kompetenti ghandha titqies li tkun hassret l-isem ta' dik il-persuna mir-Reġistru ta' Kumpanniji ghal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija f' dik id-

data, u f' dik id-data wkoll, innotifikat il-kumpannija awtorizzata koncernata skond hekk, taht il-paragrafu (a) tas-subartikolu (3) ta' l-artikolu 40 ta' dan l-Att; u l-kumpannija awtorizzata koncernata ghandha minnufih, wara d-data stabbilita, taghti lura lill-awtorità kompetenti ċ-ċertifikat ta' iskrizzjoni dwar dik il-persuna u kull kopja ufficjali li jkollha ta' dak iċ-ċertifikat.

Kap. 249. (7) Bla hsara ghad-disposizzjonijiet ta' l-artikolu 12 ta' l-Att dwar l-Interpretazzjoni -

(a) kull regolamenti, direttivi dwar l-assigurazzjoni, direttivi dwar l-intermedjarji fl-assigurazzjoni, l-ordnijiet u l-istrumenti l-oħra kollha li nżammew fis-seħh jew li saru taht l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, safejn japplika għal aġenti u l-*managers* fl-assigurazzjoni, u mill-Att dwar il-Brokers fl-Assigurazzjoni u Intermedjarji Ohra; u

(b) kull ftehim u arrangamenti li setghu saru bis-saħha ta' l-Att dwar il-Kummerċ ta' l-Assigurazzjoni, safejn japplika għal aġenti u l-*managers* fl-assigurazzjoni, u ta' l-Att dwar il-Brokers fl-Assigurazzjoni u Intermedjarji Ohra, jew li saru bis-saħha ta' kull regolament, direttivi dwar l-assigurazzjoni, direttivi dwar l-intermedjarji fl-assigurazzjoni, ordni jew strument ieħor,

ghandhom jekk ikunu u safejn jkunu minnufih qabel il-bidu fis-seħh ta' dan l-artikolu, jitqiesu li saru taht jew bis-saħha ta' dan l-Att u ghandhom jibqgħu fis-seħh u jistgħu jiġu amendati, mibdula, mħassra jew xort' oħra trattati skond hekk.

(8) Ir-riferenzi kollha f' xi liġi u f' xi strument jew dokument ieħor għall-Att dwar il-Kummerċ ta' l-Assigurazzjoni, safejn japplika għal aġenti u l-*managers* fl-assigurazzjoni, jew l-Att dwar il-Brokers fl-Assigurazzjoni u Intermedjarji Ohra, jew xi disposizzjoni tagħhom, ghandhom, safejn dan ikun applikabbli, jibqgħu jinqraw u jiftiehm bħala riferenza għal dan l-Att jew ghad-disposizzjoni minnu korrispondenti tiegħu.

(9) Kull referenza għall-direttiva dwar l-intermedjarji fl-assigurazzjoni mahruġa mill-awtorità kompetenti bis-saħha tas-subartikolu (3) ta' l-artikolu 4 ta' l-Att dwar il-Brokers fl-Assigurazzjoni u Intermedjarji Ohra f' kull licenzja, avviz, deċizzjoni jew azzjoni oħra magħmula mill-awtorità kompetenti qabel il-bidu fis-seħh tad-disposizzjonijiet ta' dan l-Att, u kull referenza f' kull liġi ghad-direttiva

dwar l-intermedjarji fl-assigurazzjoni ghandha titqies li hija riferenza ghal regola dwar l-intermedjarji fl-assigurazzjoni.

(10) Għall-fini ta' dan l-artikolu, "licenzja" tinkludi awtorità jew awtorizzazzjoni, permess, approvazzjoni, registrazzjoni, iskrizzjoni u hatra u l-kelma 'licenzjata' ghandha tiftiehem f'dan is-sens.

## TAQSIMA X

### EMENDI TA' L-ATT DWAR L-AWTORITÀ GHAS-SERVIZZI FINANZJARJI TA' MALTA, KAP. 330

Emenda ta' l-Att  
dwar Awtorità ghas-  
Servizzi Finanzjarji  
ta' Malta, Kap. 330.

**56.** (1) Din it-Taqsima temenda u ghandha tinqara u tiftiehem haġa waħda ma' l-Att dwar Awtorità ghas-Servizzi Finanzjarji ta' Malta, hawnhekk iżjed 'il quddiem f' din it-Taqsima msejjah "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima ghandhom jibdedw isehhu f' dik id-data li l-Ministru responsabbli għall-finanzi jista', b'avviż fil-Gazzetta, jistabilixxi.

Emenda ta' l-  
artikolu 16 ta' l-Att  
prinċipali.

**57.** Minnufih wara s-subartikolu (3) ta' l-artikolu 16 ta' l-Att prinċipali, ghandhom jidhlu s-subartikoli ġodda li ġejjin:

“(4) Id-dritt ta' l-Awtorità li tikseb tagħrif minn persuna li ghandha jew kellha liċenza jew awtorizzazzjoni oħra, jew minghand xi wiehed mill-uffiċjali jew impjegati ta' dik il-persuna, ma ghandu jkun ristrett, imfixkel jew prekluz b'ebda mod. *Gagging* jew obbligu ta' kunfidenzjalità simili jew xi kundizzjoni ristrettiva oħra li tohroġ minn relazzjoni legali jew kontrattwali bejn dik il-persuna u l-uffiċjali jew l-impjegati tagħha, ghandhom ikunu, sa fejn dawn imorru kontra dawn id-disposizzjonijiet u jimpedixxu jew jirrestringu d-dritt li l-Awtorità ghandha li tirċievi t-tagħrif mehtieġ konformement mal-funzjonijiet u d-dmirijiet regolatorji li johorġu taht dan l-Att jew kull Att iehor, nulli u bla effett.

(5) B'konsekwensa għad-disposizzjonijiet tas-subartikolu (4), ghandhom japplikaw dawn ir-regoli li ġejjin:

(a) kull persuna li ghandha jew kellha liċenza jew awtorizzazzjoni oħra mill-Awtorità, u l-uffiċjali jew l-impjegati tagħha ghandhom, fuq talba bil-miktub ta' l-Awtorità, minnufih jipprovdu lill-Awtorità b'kull tagħrif li din tista' tehtieg kif hemm provdut dwaru fis-subartikolu (4), u ma jistghu jqajjmu ebda restrizzjoni kontrattwali ta' *gagging* jew impediment simili jew ta' xi obbligu iehor ta' kunfidenzjalità li jinqalghu jew allegatament jinqalghu taht il-liġi dwar il-kuntratti jew xort'oħra jirrifjutaw li jharsu talba bhal dik li ssir mill-Awtorità;

(b) l-ebda azzjoni għal ksur ta' kuntratt u l-ebda miżura dixxiplinarja ma tista' tittiehed, direttament jew indirettament, minn persuna kontra xi wiehed mill-uffiċjali jew impjegati tagħha għax ikun pprovda xi tagħrif mehtieġ mill-Awtorità,

u liema taghrif kien mehtieg mill-Awtorità skond kif provdut fis-subartikolu (4); u kull miżura kuntrattwali jew dixxiplinarja li tmur kontra din id-diposizzjoni tkun nulla u bla effett;

(ċ) għall-finijiet ta' dan l-artikolu:

(i) “taghrif” tinkludi spejgazzjonijiet u forom ohra ta' assistenza; u

(ii) “impjegati” u “uffiċjali” tinkludi impjegati u uffiċjali precedenti.”.

## TAQSIMA XI

### EMENDI GĦALL-ATT DWAR *TRUSTS* U *TRUSTEES*, KAP. 331

**58.** (1) Din it-Taqsima temenda u għandha tinqara u tintfiehmem haġa wahda ma' l-Att dwar *Trusts* u *Trustees*, hawnhekk iżjed 'il quddiem f'din it-Taqsima imsejjah “l-Att prinċipali”.

Emendi għall-Att  
dwar *Trusts* u  
*Trustees*, Kap. 331.

(2) Id-disposizzjonijiet ta' din il-Parti għandhom jidhlu fis-sehh f'dik id-data li l-Ministru responsabbli għall-finanzi, jista', permezz ta' avviż fil-Gazzetta jistabbilixxi, u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti jew għanijiet differenti ta' din it-Taqsima.

**59.** Fis-subartikolu (2) ta' l-artikolu 12 ta' l-Att prinċipali minflok il-kliem “għal għan ta' karità jew għal *unit trust*” għandhom jidhlu l-kliem “għal għan ta' karità, għal *unit trust* jew għal skema għal min jirtira reġistrata taht l-Att li Jirregola Fondi Speċjali u stabbilita bhala *trust*”.

Emenda ta' l-  
artikolu 12 ta' l-Att  
prinċipali.

**60.** L-artikolu 43 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-  
artikolu 43 ta' l-Att  
prinċipali.

(a) minnufih wara l-paragrafu (b) tas-subartikolu (6), għandu jiżdied il-paragrafu (ċ) ġdid li ġej:

“(ċ) Persuna reġistrata taht l-Att li Jirregola Fondi Speċjali biex taġixxi bhala *trustee* ta' skemi għal min jirtira ma tkunx tehtieg aktar awtorizzazzjoni skond dan l-Att sakemm dawk is-servizzi ta' *trustee* jkun limitati għal skemi għal min jirtira.”;

(b) fil-paragrafu (i) tas-subartikolu (8), minflok il-kliem “liċenza; jew” għandhom jidhlu l-kliem “liċenza;”;

(ċ) fil-paragrafu (ii) tas-subartikolu (8), minflok il-kliem “f’għurisdizzjoni approvata:” għandhom jidhlu l-kliem “f’għurisdizzjoni approvata; jew”;

(d) minnufih wara l-paragrafu (ii) tas-subartikolu (8), għandu jżied il-paragrafu (iii) ġdid li ġej:

“(iii) persuna reġistrata taht l-Att li Jirregola Fondi Speċjali biex taġixxi bhala l-amministratur ta’ l-iskema għal min jirtira.”; u

(e) fil-paragrafu (a) tas-subartikolu (9), minflok il-kliem “is-subartikolu (6)(a) u s-subartikolu (7)(e), (g) u (h)” għandhom jidhlu l-kliem “is-subartikolu (6)(a) u (ċ) u s-subartikolu (7)(e), (g) u (h)”.

## TAQSIMA XII

### EMENDI TA’ L-ATT DWAR SERVIZZI TA’ INVESTIMENT, KAP. 370

Emendi ta’ l-Att  
dwar Servizzi ta’  
Investiment, Kap.  
370.

**61.** (1) Din it-Taqsima temenda u għandha tinqara’ u tiftiehem haġa waħda ma’ l-Att dwar Servizzi ta’ Investiment, hawnhekk iżjed ’il quddiem f’din it-Taqsima msejjaħ “l-Att prinċipali”.

(2) Id-disposizzjonijiet ta’ din it-Taqsima għandhom jibdwew isehhu f’dik id-data li l-Ministru responsabbli għall-finanzi jista’, b’avviż fil-Gazzetta, jistabbilixxi.

Emenda ta’ l-  
artikolu 12 ta’ l-Att  
prinċipali.

**62.** F’paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 12 ta’ l-Att prinċipali, minflok il-kliem “magħhom, jipprovdi għal kull haġa kif jidhirlu xieraq, inkluż il-holqien u l-eżerċizzju ta’ jeddijiet mill-pubbliku jew għall-benefiċċju tal-pubbliku u l-impożizzjoni ta’ dmirijiet u obbligi fuq detenturi ta’ liċenza jew persuni responsabbli għat-tmexxija jew amministrazzjoni tagħha;” għandhom jidhlu l-kliem “magħhom; jipprovdi għal kull haġa kif jidhirlu xieraq, inkluż il-holqien u l-eżerċizzju ta’ jeddijiet mill-pubbliku jew għall-benefiċċju tal-pubbliku, l-impożizzjoni ta’ dmirijiet u obbligi fuq detenturi ta’ liċenza jew persuni responsabbli għat-tmexxija jew amministrazzjoni tagħha u r-regolamentazzjoni ta’ kull dritt u, jew kull hlas iehor impost direttament jew indirettament fuq l-investituri;”.

Emenda ta’ l-  
artikolu 19 ta’ l-Att  
prinċipali.

**63.** Il-paragrafu (h) tas-subartikolu (2) ta’ l-artikolu 19 tiegħu għandu jithassar.

**64.** L-artikolu 25 ta' l-Att prinċipali għandu jiġi emendat kif ġej:- Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

(a) is-subartikoli (2), (3), (4) u (5) tiegħu għandhom jiġthassru; u

(b) is-subartikolu (6) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2).

**65.** Minflok l-artikolu 26 ta' l-Att prinċipali għandu jidhol dan li ġej: Emenda ta' l-artikolu 26 ta' l-Att prinċipali.

“26. (1) Tagħrif miksub mill-awtorità kompetenti jew mill-uffiċjali, impjegati jew aġenti tagħha għall-finijiet, jew f'konformità ma', xi wahda mid-disposizzjonijiet ta' dan l-Att, jew ta' xi regoli jew regolamenti magħmula tahtu, jew fil-qadi ta' xi funzjonijiet taht xi wahda mill-imsemmija disposizzjonijiet, għandu jitqies bħala kunfidenzjali u protett bid-dmir ta' segretezza professjonali, u m'għandu jiġi zvelat lil ebda persuna oħra hliet f'dawn il-każijiet li ġejjin:

(a) meta l-izvelar ikun mehtieg għall-kxif, prevenzjoni jew prosekuzzjoni ta' reati kriminali taht id-disposizzjonijiet kriminali ta' dan l-Att jew ta' xi Att iehor;

(b) meta t-tagħrif jiġi zvelat sabiex jinbdew, jew xort'oħra għall-finijiet ta' proċedimenti mill-awtorità kompetenti quddiem xi qorti taht dan l-Att;

(ċ) meta t-tagħrif jiġi zvelat fi proċedimenti ċivili jew kummerċjali f'każ ta' falliment jew xoljiment u stralc mill-Qorti ta' detentur ta' liċenza, sakemm dik l-informazzjoni ma tikkoncernax terzi persuni u tkun mehtieġa biex jitwettqu l-proċeduri, jew tinghata lil korp barrani responsabbli għall-istralc u għall-falliment ta' detentur ta' liċenza jew awtorizzazzjoni ekwivalenti minn awtorità regolatorja barranija;

(d) meta xi sommarju jew gabra tat-tagħrif ikun preparat jew mogħti b'tali mod li ma tkunx tista' tintgħaraf l-identità tal-persuni li t-tagħrif ikun jirreferi għalihom;

(e) meta t-tagħrif jinghata lill-awdituri meta dak il-kxif kellu jgħin lill-awdituri fit-twettiq tal-funzjonijiet tagħhom taht l-artikolu 18;

Kap. 345.

(f) meta t-taghrif jinghata lill-Bank ċentrali ta' Malta jew lill-Awtorità dwar l-Elenku taht l-Att dwar is-Swieq Finanzjarji fit-twettiq tal-funzjonijiet rispettivi tagħhom skond il-liġi; u

(g) meta t-taghrif jinghata lil xi awtorità oħra regolatorja, ġudizzjarja jew ta' infurzar, lokali jew barranija, abbażi ta' kwistjonijiet serji ta' natura regolatorja jew kriminali.

(2) Bla ħsara għad-disposizzjonijiet ta' l-artikolu 17, tagħrif miksub minn awtorità regolatorja barranija jista' jiġi biss zvelat lil persuna oħra, lil awtorità regolatorja barranija oħra, jew lil terzi oħra bl-approvazzjoni bil-quddiem ta' l-awtorità li tkun tat it-tagħrif.”.

### TAQSIMA XIII

#### EMENDI TA' L-ATT DWAR ISTITUZZJONIJIET FINANZJARJI, KAP. 376

Emenda ta' l-Att dwar l-Istituzzjonijiet Finanzjarji, Kap. 376.

**66.** (1) Din it-Taqsima temenda u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar Istituzzjonijiet Finanzjarji, hawnhekk iżjed 'il quddiem f' din it-Taqsima msejjah “l-Att prinċipali”.

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jibdwew isehħu f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jistabbilixxi b'avviz fil-Gazzetta.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**67.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok it-tifsira “awtorità kompetenti”, għandha tidhol din it-tifsira li ġejja:

“l-awtorità kompetenti” tfisser il-korp imsemmi fl-artikolu 12(1);” u

(b) is-subartikolu (2) tiegħu għandu jiġi mħassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu 2 shih.

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

**68.** L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (3) u (4) rispettivament; u



(b) minnufih wara s-subartikolu (1) tiegħu, għandu jiżdied dan is-subartikolu (2) ġdid li ġej:

“(2) Bla hsara għad-disposizzjonijiet tas-subartikolu (3), persuna ma titqiesx li hija istituzzjoni finanzjarja minhabba fil-fatt li dik il-persuna jew:

(a) tkun tagħmel parti minn grupp ta’ kumpanniji u tkun tipprovdi xi attività minn dawk elenkati fl-Iskeda li tinsab ma’ dan l-Att lil kumpanniji li ma jkunux banek jew istituzzjonijiet finanzjarji u li jkunu jagħmlu parti mill-istess grupp ta’ kumpanniji; jew

(b) tkun tagħmel u toħroġ kambjali fil-kors normali tan-negozju tagħha taht arrangamenti ta’ *hire purchase*, jew taht bejgħ li jsir bi kreditu meta l-kambjali jsiru għall-prezz dovut.”.

**69.** Minflok is-sub artikolu (3) ta’ l-artikolu 9 ta’ l-Att prinċipali għandu jidhol dan li ġej :

Emenda ta’ l-artikolu 9 ta’ l-Att prinċipali.

“(3) Is-subartikolu (1) għandu japplika kemm jekk l-azzjonijiet rilevanti jkunu jew ma jkunux elenkati f’borża ta’ investimenti rikonoxxut skond l-Att dwar is-Swieq Finanzjarji.”.

Kap. 345.

**70.** Minflok il-paragrafu (a) ta’ l-artikolu 21 ta’ l-Att prinċipali, għandu jidhol dan li ġej:

Emenda ta’ l-artikolu 21 ta’ l-Att prinċipali.

“(a) taht l-artikolu 3(3);”.

## TAQSIMA XIV

### EMENDI TA’ L-ATT DWAR IL-KUMPANNIJI, KAP. 386

**71.** (1) Din it-Taqsima temenda u għandha tinqara’ u tiftiehem haġa wahda ma’ l-Att dwar il-Kumpanniji, hawnhekk iżjed ’il quddiem f’ din it-Taqsima msejjah “l-Att prinċipali”.

Emenda ta’ l-Att dwar il-Kumpanniji, Kap. 386.

(2) Id-disposizzjonijiet ta’ din it-Taqsima għandhom jibdwew isehhu f’ dik id-data li l-Ministru responsabbli għall-finanzi jista’, b’avviż fil-Gazzetta, jistabbilixxi.

**72.** Fit-tieni parti ta’ l-“ARRANGAMENT TA’ L-ATT” kif tidher qabel l-Att prinċipali, imsemmija “SKEDI”, minflok il-kliem minn “L-Għaxar Skeda” sa “Tabella ta’ Konkordanza” għandu jidhol dan li ġej:

Emenda ta’ l-“Arrangament ta’ l-Att”.

“L-Ghaxar Skeda	Soċjetajiet in akkomanditi jew soċjetajiet limitati
Il-Hdax-il Skeda	Penalitajiet
It-Tnax-il Skeda	Tabella ta’ Konkordanza”.

Emenda ta’ l-  
artikolu 428 ta’ l-  
Att prinċipali.

**73.** Fis-sub-artikolu (15) ta’ l-artikolu 428 ta’ l-Att prinċipali, minflok il-kliem “- fil-każ ta’ kumpannija, xi riżoluzzjoni, avviż, prospett, jew dokument iehor mehtieġ li jkun konsenjat lir-Registratur skond id-disposizzjonijiet tat-Titolu II tat-Taqsima V u ta’ l-artikoli 122, 146, 183 u 184; u”, ghandhom jidhlu l-kliem “-fil-każ ta’ kumpannija, xi riżoluzzjoni, avviż, prospett, jew dokument iehor li jkun mehtieġ li jiġi registrat taht dan l-Att, hlief għal xi riżoluzzjoni, avviż, prospett, jew dokument iehor mehtieġ li jkun konsenjat lir-Registratur skond id-disposizzjonijiet tat-Titolu II tat-Taqsima V u ta’ l-artikoli 122, 146, 183 u 184; u”.

Emenda ta’ l-  
Ghaxar Skeda li  
tinsab ma’ l-Att  
prinċipali.

**74.** Il-paragrafu 25 tal-Ghaxar Skeda li tinsab ma’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subinċiż (m) tas-subparagrafu (8) tieghu, minflok il-kliem “u fil-każ li dak l-attiv ma jkunux biżżejjed biex jithallas il-passiv hekk magħmul, il-kredituri dwaru ma jkollhom ebda dritt jew rimedju kontra l-attiv l-iehor tas-soċjetà, u d-disposizzjonijiet ta’ kull liġi jew regolament fis-sehħ li jirregola l-insolvenza ta’ soċjetajiet ma ghandhux japplika.”, ghandhom jidhlu l-kliem “u l-kredituri ta’ dan ma ghandu jkollhom ebda pretensjoni jew dritt ta’ azzjoni kontra l-attiv l-iehor tas-soċjetà, u ghandhom ikunu japplikaw dawn ir-regoli li ġejjin:

(i) proċeduri li jkollhom x’jaqsmu mas-soċjetà ghandhom ikunu jirrispettaw l-istatus legali ta’ kull sotto-klassi bhala patrimonju separat mill-attiv u l-passiv ta’ kull sotto-klassi ohra tas-soċjetà skond din l-Iskeda; u

(ii) proċeduri taht l-Att ghandhom ikunu japplikaw *mutatis mutandis* għas-sotto-klassi bhal li kieku din kienet entità legali distinta u b’dawk il-modifiki li jkunu mehtieġa għar-rigward tal-fatt li dik is-sotto-klassi ma tkunx soċjetà; u l-proċeduri li jkollhom x’jaqsmu ma’ xi sotto-klassi wahda ma ghandu jkollhom l-ebda effett fuq l-attiv ta’ xi sotto-klassi ohra tas-soċjetà jew tas-soċjetà nnifisha.

“Proċeduri” fis-subinċiż (m) ta’ dan is-subparagrafu tirreferi għal kull proċedura skond il-paragrafi 20 sa 24 ta’ din l-iskeda u tat-Taqsima VI ta’ l-Att.”; u

(b) is-subparagrafi (n), (o) u (p) tas-subparagrafu (8) tiegħu għandhom jiġu mibdula mill-ġdid bħala s-subparagrafi (o), (p), u (q) rispettivament, u minnufih wara s-subparagrafu (m) tiegħu għandu jiddaħħal dan is-subparagrafu (n) ġdid li ġej:

“(n) Meta titwaqqaf soċjetà in akkomandita jew soċjetà limitata bħala soċjetà umbrella jew b’diversi klassijiet u din tagħzel li l-attiv u l-passiv tas-sotto-klassijiet tagħha jiġu trattati bħala patrimonji distinti, il-memorandum għandu jkun jipprovdli li l-valur attwali tal-kapital azzjonarju mhallas ta’ kull sotto-klassi għandu f’kull waqt ikun ugwali għall-valur ta’ l-attiv ta’ kull tip tas-sotto-klassi partikolari wara li jitnaqqas il-passiv ta’ dik is-sotto-klassi u dan minflok dak li hemm provdut fil-paragrafu (i) tas-subparagrafu (ċ) tas-subartikolu (2) ta’ l-artikolu 84 ta’ l-Att.”.

## TAQSIMA XV

### EMENDI TA’ L-ATT DWAR IL-KUMMERĊ TA’ L-ASSIGURAZZJONI, KAP. 403

**75.** (1) Din il-Taqsima temenda l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, hawnhekk iżjed ’il quddiem f’din it-Taqsima imsejjah “l-Att prinċipali” u għandha tinqara u tinftiehem bħala wahda ma’ l-Att prinċipali. Emendi ta’ l-Att dwar il-Kummerċ ta’ l-Assigurazzjoni, Kap. 403.

(2) Id-disposizzjonijiet ta’ din il-Parti għandhom jidhlu fis-seħh f’tali ġurnata li l-Ministru responsabbli għall-finanzi, jista’, permezz ta’ avviż fil-Gazzetta jstabilixxu, u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti jew għanijiet differenti ta’ din it-Taqsima.

**76.** L-artikolu 2 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 2 ta’ l-Att prinċipali.

(a) fin-nota marginali tiegħu, minflok il-kelma “Tifsir” għandhom jidhlu l-kliem “Tifsir u għan”.

(b) fis-subartikolu (1) tiegħu:

(i) minflok it-tifsira “aġent fl-assigurazzjoni”, għandha tidhol din it-tifsira li ġejja:

““aġent fl-assigurazzjoni” ghandha l-istess tifsira bhal dik moghtija lilha bl-Att ta’ l-2006 dwar Intermedjarji fl-Assigurazzjoni;”;

(ii) fit-tifsira “awtorità kompetenti” minflok il-kliem “taht l-artikolu 3(2)” ghandhom jidhlu l-kliem “taht l-artikolu 3”;

(iii) minnufih wara t-tifsira “awtorizzazzjoni”, ghandha tizdied it-tifsira ġdida li ġejja:

Kap. 386.

““ċellula” ghandha l-istess tifsira bhal dik moghtija lilha bl-Att dwar il-Kumpanniji;”;

(iv) it-tifsira “direttiva dwar l-assigurazzjoni” ghandha tithassar;

(v) fit-tifsira “fondi tal-kumpannija stess”, minflok il-kliem “skond direttiva dwar l-assigurazzjoni”, ghandhom jidhlu l-kliem “skond regola dwar l-assigurazzjoni”;

(vi) minnufih wara t-tifsira “*holding* kwalifikattiv ta’ azzjonijiet” ghandha tizdied it-tifsira ġdida li ġejja:

“ “impriza ta’ l-assigurazzjoni Ewropea” tfisser impriza li ghandha l-uffiċċju prinċipali taghha fi Stat Membru jew fi Stat ŻEE li ma jkunx Malta, li tmexxi kummerċ ta’ l-assigurazzjoni diretta fit-tifsira ta’ l-artikolu 1 tad-Direttiva tal-Kunsill 73/239/KEE ta’ l-24 ta’ Lulju 1973 dwar il-koordinament ta’ liġijiet, regolamenti u disposizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tan-negozju ta’ l-assigurazzjoni diretta barra mill-assigurazzjoni tal-hajja jew ta’ l-artikolu 2 tad-Direttiva 2002/83/KEE tal-Parlament Ewropew u tal-Kunsill tal-5 ta’ Novembru 2002 li tikkonċerna l-assigurazzjoni fuq il-hajja li rċeviet l-awtorizzazzjoni skond l-artikolu 6 u l-artikolu 4 ta’ dawn id-Direttivi rispettivament;”;

(vii) it-tifsira “korp ta’ l-assigurazzjoni rikonoxxut” ghandha tithassar;

(viii) minnufih wara t-tifsira “kumpannija”, ghandha tizdied it-tifsira ġdida li ġejja:

““kumpannija ċellulari” ghandha l-istess tifsira bhal dik moghtija lilha bl-Att dwar il-Kumpanniji;”;

(ix) minflok it-tifsira “kumpannija li l-uffiċċju prinċipali taghha jkun f’pajjiż barra minn Malta” ghandha tidhol din it-tifsira li ġejja:

““kumpannija li l-uffiċċju prinċipali taghha jkun f’pajjiż barra minn Malta” tfisser kumpannija, li ma tkunx impriza ta’ l-assigurazzjoni Ewropea, reġistrata, inkorporata jew kostitwita barra minn Malta skond il-liġijiet ta’ xi pajjiż kemm-il darba dik il-kumpannija tkun harset id-disposizzjonijiet ta’ kull liġi li tista’ minn żmien ghal żmien tkun issehh f’Malta relattivament għaliha;”;

(x) minflok it-tifsira “*manager* fl-assigurazzjoni”, ghandha tidhol din li ġejja:

““*manager* fl-assigurazzjoni” ghandha l-istess tifsira bhal dik moghtija lilha bl-Att ta’ l-2006 dwar Intermedjarji fl-Assigurazzjoni;”;

(xi) fit-tifsira “preskritt”, minflok il-kliem “preskritt b’reġoli jew b’reġolamenti”, ghandhom jidhlu l-kliem “preskritt b’reġolamenti”;

(xii) fit-tifsira “provizjonijiet tekniċi”, minflok il-kliem “skond l-artikolu 17(1) sa (6)”, ghandhom jidhlu l-kliem “skond l-artikolu 17(1) sa (5)”;

(xiii) minflok it-tifsira “ir-rabtiet internazzjonali ta’ Malta” ghandha tidhol din it-tifsira li ġejja:

““rabtiet internazzjonali ta’ Malta” tfisser ir-rabtiet, responsabbiltajiet u l-obbligi ta’ Malta li johorġu minn shubija ta’, jew mill-adeżjoni għall-Unjoni Ewropea, jew mis-shubija ta’, jew mill-affiljazzjoni ma’, jew mir-relazzjoni ma’, xi organizzazzjonijiet internazzjonali, globali jew reġjonali jew grupp ta’ pajjiżi jew skond xi trattat, konvenzjoni jew ftehim iehor internazzjonali, imsejjah kif ikun imsejjah, kemm bilaterali kemm multilaterali, li Malta tkun taghmel parti minnhom;”;

(xiv) minnufih wara t-tifsira “rabtiet internazzjonali ta’ Malta” ghandha tidhol it-tifsira ġdida li ġejja:

““regola dwar l-assigurazzjoni” tfisser regola dwar il-kummerç ta’ l-assigurazzjoni li tkun torbot lill-kumpanniji awtorizzati u lil ohrajn skond kif ikun imsemmi fiha, mahruġa mill-awtorità kompetenti bis-sahha ta’ l-artikolu 4(3);”;

(xv) fit-tifsira “riskju sitwat f’Malta”, fil-paragrafu (b) tiegħu, ghandu jizdied dan il-kliem ġdid li ġej:

“Izda, fejn il-vettura tiġi trasferita minn Stat Membru jew minn Stat ŻEE għal Malta, ir-riskju jiġi kkunsidrat li hu sitwat f’Malta, hekk kif minnufih ix-xerrej jaççetta il-konsenja għal perjodu ta’ tletin ġurnata, ghalkemm il-vettura tkun ghadha ma ġietx irregistrata formalment f’Malta;”;

(xvi) minnufih wara t-tifsira “reklam” ghandha tidhol din it-tifsira ġdida li ġejja:

““rijassigurazzjoni” tfisser l-attività li taççetta riskji li jkunu ġew çeduti minn impriża ta’ l-assigurazzjoni jew minn impriża ohra tar-rijassigurazzjoni;”;

(xvii) minnufih wara t-tifsira “stabbiliment”, ghandha tizdied it-tifsira ġdida li ġejja:

““Stat Membru” tfisser Stat Membru tal-Komunitajiet Ewropej”; u

(xviii) minnufih wara t-tifsira ġdida “Stat Membru”, ghandha tizdied it-tifsira ġdida li ġejja:

““Stat ŻEE” tfisser Stat li jkun parti kontraenti fil-ftehim fuq iż-Żona Ekonomika ffirmata f’Oporto fit-2 ta’ Mejju, 1992 kif emendat bil-Protokol iffirmit fi Brussel fis-17 ta’ Marzu 1993 u kif emendat minn żmien għal żmien;”;

(ç) minflok is-subartikolu (2) tiegħu, ghandu jidhol dan li ġej:

“Ghan. (2) L-ghan ta’ dan l-Att huwa, in parti, biex jimplimenta d-disposizzjonijiet ta’:

(a) id-Direttiva tal-Kunsill ta’ l-24 ta’ Lulju 1973 dwar il-koordinament ta’ liġijiet, regolamenti u

disposizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tan-negozju ta' l-assigurazzjoni diretta barra mill-assigurazzjoni tal-hajja (73/239/KEE);

(b) it-tieni Direttiva tal-Kunsill tat-22 ta' Ġunju 1988 dwar il-koordinazzjoni ta' ligijiet, regolamenti u disposizzjonijiet amministrattivi li ghandhom x'jaqsmu ma' assicurazzjoni diretta ta' xort' ohra minn assicurazzjoni tal-hajja u li jistipulaw id-disposizzjonijiet li jiffacilitaw l-eżerċizzju effettiv tal-liberta' li jiġu provduti servizzi u li temenda d-Direttiva 73/239/KEE (88/357/KEE);

(c) id-Direttiva tal-Kunsill 92/49/KEE tat-18 ta' Gunju 1992 dwar il-koordinazzjoni ta' ligijiet, regolamenti u disposizzjonijiet amministrattivi li ghandhom x'jaqsmu ma' assicurazzjoni diretta barra minn assicurazzjoni tal-hajja u temenda d-Direttivi 73/239/KEE u 88/357/KEE (it-tielet Direttiva dwar assicurazzjoni mhux tal-hajja);

(d) id-Direttiva 2002/12/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Marzu 2002 li temenda d-Direttiva tal-Kunsill 79/267/KEE fir-rigward tal-htigiet tal-margini ta' likwidita' ghal intraprizi ta' assicurazzjoni tal-hajja;

(e) id-Direttiva 2002/13/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Marzu 2002 li temenda d-Direttiva tal-Kunsill 73/239/KEE fir-rigward tal-htigiet tal-margini ta' likwidita' ghal intrprizi ta' assicurazzjoni mhux tal-hajja;

(f) id-Direttiva 2002/83/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Novembru 2002 li tikkoncerna l-assigurazzjoni fuq il-hajja;

(g) id-Direttiva 2005/14/KE tal-Parlament Ewropew u tal-Kunsill tal-11 ta' Mejju 2005 li temenda d-Direttivi tal-Kunsill 72/166/KEE, 84/5/KEE, 88/357/KEE u 90/232/KEE u d-Direttiva 2000/26/KEE tal-Parlament Ewropew u tal-Kunsill dwar l-assigurazzjoni kontra r-resposabbiltà ċivili rigward l-użu ta' vetturi bil-mutur;

(h) id-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni li temenda d-Direttivi tal-Kunsill 73/239/KEE, 92/49/KEE kif ukoll id-Direttivi 98/78/KE u 2002/83/KE; u

(i) kull Direttiva oħra tal-Parlament Ewropew u tal-Kunsill li tkun mahruġa minn żmien għal żmien dwar ir-regolamentazzjoni u esiġenzi ta' prudenza li japplikaw għal kumpanniji ta' l-assigurazzjoni,

li għandhom jiġu interpretati u applikati bl-istess mod.”; u

(d) fis-subartikolu (3) tiegħu, minflok il-kliem “f’kull regoli jew regolamenti magħmula bis-sahha tiegħu”, għandhom jidhlu l-kliem “f’kull regolamenti magħmula bis-sahha tiegħu”.

Sostituzzjoni ta' l-artikolu 3 ta' l-Att prinċipali.

**77.** Minflok l-artikolu 3 ta' l-Att prinċipali, għandu jidhol dan li ġej:

“Awtorità kompetenti.

3. Il-Ministru għandu b'ordni fil-Gazzetta jahtar korp biex ikun l-awtorità kompetenti għall-finijiet ta' dan l-Att sabiex jaqdi l-funzjonijiet ta' l-awtorità kompetenti taht dan l-Att u, partikolarment, jiżgura t-tharis tad-disposizzjonijiet ta' dan l-Att.”.

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

**78.** L-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “ta' kull regoli jew regolamenti magħmula tahtu”, kull fejn jidher, għandhom jidhlu l-kliem “ta' kull regolamenti magħmula tahtu,” ;u

(ii) minflok il-kliem “ta' kull direttiva dwar l-assigurazzjoni magħmula mill-awtorità kompetenti”, għandhom jidhlu l-kliem “ta' kull regola dwar l-assigurazzjoni magħmula mill-awtorità kompetenti”;

(b) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem “direttivi dwar l-assigurazzjoni” kull fejn jidher, għandhom jidhlu l-kliem “regoli dwar l-assigurazzjoni”; u



(ii) minflok il-kliem “ta’ kull regoli jew regolamenti magħmula bis-saħha tiegħu.”, għandhom jidhlu l-kliem “ta’ kull regolamenti magħmula bis-saħha tiegħu.”;

(ċ) fis-subartikolu (4) tiegħu, minflok il-kliem “Direttivi dwar l-assigurazzjoni”, għandhom jidhlu l-kliem “Regoli dwar l-assigurazzjoni”; u

(d) fis-subartikolu (5) tiegħu, minflok il-kliem “Direttivi dwar l-assigurazzjoni”, għandhom jidhlu l-kliem “Regoli dwar l-assigurazzjoni”;

**79.** L-artikolu 5 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 5 ta’ l-Att prinċipali.

(a) f’subartikolu (6) tiegħu, minflok il-kliem “jagħmel regoli jew regolamenti”, għandhom jidhlu l-kliem “jagħmel regolamenti”;

(b) f’subartikolu (7) tiegħu, minflok il-kliem “b’ direttiva dwar l-assigurazzjoni”, għandhom jidhlu l-kliem “b’ regola dwar l-assigurazzjoni”; u

(ċ) f’subartikolu (8) tiegħu, minflok il-kliem “permezz ta’ direttiva dwar l-assigurazzjoni”, jew “fid-direttiva” għandhom jidhlu l-kliem “permezz ta’ regola dwar l-assigurazzjoni” jew “fir-regola” rispettivament.

**80.** L-artikolu 6 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 6 ta’ l-Att prinċipali.

(a) minflok is-subartikolu (3) tiegħu, għandu jidhol dan li ġej:

“(3) Is-subartikoli (1) u (2) ma japplikawx għal:

(a) *mutual association* jekk dik il-*mutual association* tissodisfa dawk il-htigijiet li jistgħu jiġu stabbiliti f’regola dwar l-assigurazzjoni magħmula għall-fini ta’ dan; jew

(b) impriża ta’ l-assigurazzjoni Ewropea li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE li tistabbilixxi fergha jew tipprovdi servizzi f’Malta fl-eżerċizzju ta’ dritt Ewropew.”;

(b) is-subartikolu (4) tiegħu għandu jithassar; u

(ċ) is-subartikoli (5) u (6) tiegħu, għandhom jiġu enumerati bhala s-subartikoli (4) u (5) rispettivament.

Emenda ta' l-artikolu 8 ta' l-Att prinċipali.

**81.** L-artikolu 8 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-paragrafu (b) tiegħu, għandu jidhol dan li ġej:

“(b) (i) safejn tapplika għall-kumpannija li l-kummerċ tagħha mhuwiex ristrett għal kummerċ ta' rijassigurazzjoni, l-għanijiet tal-kumpannija jkunu limitati għall-kummerċ ta' l-assigurazzjoni u xogħol li jinqala' direttament minnu, bl-eskluzjoni ta' kull negozju iehor kummerċjali;

(ii) safejn tapplika għall-kumpannija li tmexxi kummerċ ristrett għal kummerċ ta' rijassigurazzjoni, l-għanijiet tal-kumpannija jkunu limitati għall-kummerċ ta' rijassigurazzjoni u operazzjonijiet li għandhom x'jaqsmu miegħu li jista' jiġi speċifikat b'regola dwar l-assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu;”;

(ii) fil-paragrafu (e) tiegħu, minflok il-kliem “li jistgħu jkunu stabbiliti b'direttiva dwar l-assigurazzjoni”, għandhom jidhlu l-kliem “li jistgħu jkunu stabbiliti b'regola dwar l-assigurazzjoni”; u

(iii) fil-paragrafu (f) tiegħu, minflok il-kliem “kif jista' jiġi determinat b'direttiva dwar l-assigurazzjoni”, għandhom jidhlu il-kliem “kif jista' jiġi determinat b'regola dwar l-assigurazzjoni”; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “direttiva dwar l-assigurazzjoni mahruġa taht dan l-Att”, għandhom jidhlu il-kliem “regola dwar l-assigurazzjoni mahruġa taht dan l-Att”.

Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

**82.** L-artikolu 9 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu, għandu jidhol dan li ġej:

“(2) Mingħajr preġudizzju għad-disposizzjonijiet tas-subartikolu (3), id-disposizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal kumpannija li jkollha awtorizzazzjoni tmexxi sew kummerċ fit-tul kif ukoll

kummerċ generali taht dan l-Att kif fis-sehh minnufih qabel id-dhul fis-sehh ta' subartikolu (1) sa dak iż-żmien li l-Ministru jista' b'Ordni fil-Gazzetta jistabbilixxi.”; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “li jista' jiġi stabbilit b'direttiva dwar l-assigurazzjoni”, għandhom jidhlu il-kliem “li jista' jiġi stabbilit b'regola dwar l-assigurazzjoni”.

**83.** Fil-paragrafu (b) ta' subartikolu (1) ta' l-artikolu 10 ta' l-Att prinċipali, il-kliem “meta l-awtorizzazzjoni mitluba jew miżmuma tkun waħda li mhux ristretta għal rijassigurazzjoni” għandhom jithassru. Emenda ta' l-artikolu 10 ta' l-Att prinċipali.

**84.** Fl-inċiż (ii) tal-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 11 ta' l-Att prinċipali, minflok il-kliem “stabbiliti b'direttiva dwar l-assigurazzjoni”, għandhom jidhlu il-kliem “stabbiliti b'regola dwar l-assigurazzjoni”. Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

**85.** L-artikolu 13 ta' l-Att prinċipali għandu jithassar. Thassir ta' l-artikolu 13 ta' l-Att prinċipali.

**86.** L-artikolu 14 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 14 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, il-kliem “Bla hsara għas-subartikolu (3)”, għandhom jithassru;

(b) is-subartikolu (3) tiegħu għandu jithassar;

(c) is-subartikoli (4), (5), (6) u (7) tiegħu, għandhom jiġu enumerati bhala s-subartikoli (3), (4), (5) u (6) rispettivament;

(d) fis-subartikolu (5) tiegħu kif enumerat, minflok il-kliem “r-riferenza fis-subartikolu (5)(a)”, għandhom jidhlu l-kliem “r-riferenza fis-subartikolu (4)(a)”; u

(e) fis-subartikolu (6) tiegħu kif enumerat:

(i) minflok il-kliem “Fl-applikazzjoni tas-subartikolu (5)”, għandhom jidhlu l-kliem “Fl-applikazzjoni tas-subartikolu (4)”; u

(ii) minflok il-kliem “miżmuma taht l-artikolu 17(7)”, għandhom jidhlu l-kliem “miżmuma taht l-artikolu 17(6)”.

**87.** L-artikolu 15 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda tan-nota marginali ta' l-artikolu 15 ta' l-Att prinċipali.

(a) fit-test Inġliż, minflok in-nota marginali li hemm ma' l-artikolu 15 ta' l-Att prinċipali, għandha tidhol din in-nota marginali “Failure to maintain the minimum margin of solvency.”; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “skond l-artikolu 14(6)”, għandhom jidhlu l-kliem “skond l-artikolu 14(5)”.

Emenda ta' l-artikolu 16 ta' l-Att prinċipali.

**88.** L-artikolu 16 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem “Bla hsara għas-subartikolu (5)” għandhom jithassru ; u

(b) is-subartikolu (5) tiegħu għandu jithassar.

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

**89.** L-artikolu 17 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (6) tiegħu għandu jithassar;

(b) is-subartikoli (7), (8) u (9) tiegħu, għandhom jiġu enumerati bhala s-subartikoli (6), (7) u (8) rispettivament;

(c) fis-subartikolu (6) tiegħu kif enumerat, minflok il-kliem “Bla hsara għas-subartikolu (1) u suġġett għas-subartikolu (8),” għandhom jidhlu l-kliem “Bla hsara għas-subartikoli ta' qabel u suġġett għas-subartikolu (7)”; u

(d) fis-subartikolu (7) tiegħu kif enumerat, minflok il-kliem “Is-subartikolu (7) ma għandux japplika għal kumpannija awtorizzata”, għandhom jidhlu l-kliem “Is-subartikolu (6) ma għandux japplika għal kumpannija awtorizzata”.

Emenda ta' l-artikolu 20 ta' l-Att prinċipali.

**90.** Is-subartikolu (4) ta' l-artikolu 20 ta' l-Att prinċipali għandu jithassar.

Emenda ta' l-artikolu 21 ta' l-Att prinċipali.

**91.** Is-subartikolu (3) ta' l-artikolu 21 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “u ta' kull regoli jew regolamenti”, għandhom jidhlu l-kliem “u tar-regolamenti kollha”; u

(b) minflok il-kliem “u ta' kull direttiva dwar l-assigurazzjoni”, għandhom jidhlu l-kliem “u ta' kull regola dwar l-assigurazzjoni”.

Emenda ta' l-artikolu 23 ta' l-Att prinċipali.

**92.** L-artikolu 23 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (4) tiegħu, minflok il-kliem “kif jiġi stabbilit b'direttiva dwar l-assigurazzjoni”, għandhom jidhlu il-kliem “kif jiġi stabbilit b'regola dwar l-assigurazzjoni”; u

(b) fis-subartikolu (6) tieghu, minflok il-kliem “tistabbilixxi b’direttiva dwar l-assigurazzjoni.”, ghandhom jidhlu il-kliem “tistabbilixxi b’rekola dwar l-assigurazzjoni.”.

**93.** L-artikolu 26 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 26 ta’ l-Att prinċipali.

(a) fil-paragrafu (a) tieghu:

(i) minflok il-kliem “xi regoli jew regolamenti magħmula bis-saħħa tieghu”, ghandhom jidhlu l-kliem “xi regolamenti magħmula bis-saħħa tieghu”;u

(ii) minflok il-kliem “jew xi direttiva dwar l-assigurazzjoni;”, ghandhom jidhlu l-kliem “jew xi regola dwar l-assigurazzjoni;”; u

(b) fil-paragrafu (d) tieghu:

(i) minflok il-kliem “xi regoli jew regolamenti magħmula bis-saħħa tieghu;”, ghandhom jidhlu l-kliem “u xi regolamenti magħmula bis-saħħa tieghu;”;u

(ii) minflok il-kliem “jew ta’ direttiva dwar l-assigurazzjoni;”, ghandhom jidhlu l-kliem “jew ta’ regola dwar l-assigurazzjoni;”.

**94.** Is-subartikolu (1) ta’ l-artikolu 28 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 28 ta’ l-Att prinċipali.

(a) minflok il-kliem “F’kull wiehed mill-każijiet fejn l-awtorità kompetenti tista’ thassar jew tirrevoka awtorizzazzjoni taht l-artikolu 26, l-awtorità kompetenti tista’, jew minflok jew b’zieda ma’ kull sospensjoni jew revoka bħal dik, u bla hsara għas-setgħat tagħha li tissospendi jew tirrevoka awtorizzazzjoni, tipproċedi b’mod wiehed jew iktar minn dawn li ġejjin:” ghandhom jidhlu l-kliem “Bla hsara għall-poteri mogħtija lill-awtorità kompetenti taht l-artikolu 26 ta’ l-Att, l-awtorità kompetenti, tista’ fejn tkun sodisafatta li jeżistu ċirkostanzi serji biżżejjed, tipproċedi biex tiehu wiehed jew iżjed mill-miżuri li ġejjin:”;

(b) minflok il-paragrafu (e) tieghu ghandu jidhol dan li ġej:

“(e) tagħti ordni għax-xoljiment u stralċ ta’ kumpannija, jew fil-każ ta’ kumpannija li l-uffiċċju prinċipali tagħha jkun f’pajjiż barra minn Malta, għax-xoljiment tal-kummerċ tagħha f’Malta;”; u

(ċ) minflok il-paragrafu (h) tieghu ghandu jidhol dan li ġej:

“(h) tehtieg li kumpannija tippreżenta pjan ta’ rkupru finanzjarju skond kif jista’ jiġi determinat b’reġola dwar l-assigurazzjoni magħmula għall-finijiet ta’ dan l-artikolu jekk jidhrilha li l-interessi, ta’ l-assigurati, detenturi tal-polza, kredituri jew persuni ohra interessati x’aktarx ikunu preġudikati minhabba f’deterjorazzjoni fil-qagħda finanzjarja tal-kumpannija;”.

Emenda ta’ l-artikolu 30 ta’ l-Att prinċipali.

**95.** Minflok is-subartikolu (7) ta’ l-artikolu 30 ta’ l-Att prinċipali, ghandu jidhol dan li ġej:

“(7) F’dan l-artikolu, kull referenza għall-uffiċjali jew agenti ghandha tinkludi referenza sew għal uffiċjali u agenti preżenti kif ukoll passati u l-espressjoni “agenti”, dwar kumpannija awtorizzata, ghandha tinkludi agent fl-assigurazzjoni, *manager* fl-assigurazzjoni jew intermedjarju marbut fl-assigurazzjoni, reġistrat jew iskritt taht l-Att ta’ l-2006 dwar Intermedjarji fl-Assigurazzjoni li jaġixxi għannom tal-kumpannija, il-bankiera, l-udituri u, fil-każ ta’ kumpannija awtorizzata biex tmexxi kummerċ fit-tul, l-attwarju tal-kumpannija, persuna li qieghda taġixxi bhala intermedjarju u persuna kif jista’ jiġi ordnat b’reġolamenti magħmulin għall-finijiet ta’ l-artikolu 18.”.

Żieda ta’ l-artikolu 31A ġdid ma’ l-Att prinċipali.

**96.** Minnufih wara l-artikolu 31 ta’ l-Att prinċipali, ghandu jidhol dan l-artikolu 31A ġdid li ġej:

“Setgħa li tohroġ direttivi.

31A. (1) Bla hsara għal xi wahda mis-setgħat mogħtija lilha f’dan l-Att, l-awtorità kompetenti tista, kull meta jidrilha xieraq, tagħti b’avviż bil-miktub, dawk id-direttivi li jidhrilha xierqa fiċ-ċirkostanzi, u kull persuna li lilha jingħata l-imsemmi avviż ghandha tobdih, thares jew xort’ ohra, tagħti effett lil direttiva hawn imsemmija fiż-żmien u bil-mod imsemmi fid-direttiva.

(2) Is-setgħa li jingħataw direttivi taht dan l-artikolu ghandha tinkludi is-setgħa li tvarja, tbiddel, żżid jew tirtira kull direttiva li tkun tat, kif ukoll is-setgħa li tohroġ direttivi ġodda jew direttivi ohra.

(3) Meta l-awtorità kompetenti tkun tal-fehma li ċ-ċirkostanzi hekk jitolbu, hija tista’ f’kwalunkwe hin tippubblika kull direttiva li tkun tat taht kull provvediment ta’ dan l-artikolu.”.

**97.** L-artikolu 32 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 32 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “direttiva dwar l-assigurazzjoni” jew “b’dik id-direttiva.”, għandhom jidhlu il-kliem “regola dwar l-assigurazzjoni” jew “b’dik ir-regola.”, rispettivament;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “bid-direttiva dwar l-assigurazzjoni.”, għandhom jidhlu l-kliem “bir-regola dwar l-assigurazzjoni.”; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem “speċifikat fid-direttiva.”, għandhom jidhlu l-kliem “speċifikat fir-regola.”.

**98.** L-artikolu 37 ta' l-Att għandu jithassar. Thassir ta' l-artikolu 37 ta' l-Att prinċipali.

**99.** L-artikolu 38 ta' l-Att prinċipali, għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “entità ta' l-assigurazzjoni,”, għandhom jidhlu l-kliem “impriża ta' l-assigurazzjoni, impriża tar-rijassigurazzjoni,”;

(b) fis-subartikolu (7) tiegħu, minflok il-kliem “direttiva dwar l-assigurazzjoni li tistabbilixxi l-forma kif għandu jinghata dak l-avviż”, għandhom jidhlu l-kliem “regola dwar l-assigurazzjoni li tistabbilixxi l-forma kif għandu jinghata dak l-avviż”.

**100.** L-artikolu 39 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 39 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu:

(i) fl-inċiż (i) ta' paragrafu (a) tiegħu, minflok il-kliem “li jista' jiġi stabbilit b'direttiva dwar l-assigurazzjoni”, għandu jidhlu il-kliem “li jista' jiġi stabbilit b'regola dwar l-assigurazzjoni”; u

(ii) fl-inċiż (ii) ta' paragrafu (b) tiegħu, minflok il-kliem “b’xi direttiva dwar l-assigurazzjoni applikabbli.” għandhom jidhlu il-kliem “b’xi regola dwar l-assigurazzjoni applikabbli.”;

(b) is-subartikolu (3) tiegħu għandu jithassar; u

(ċ) is-subartikolu (4) tiegħu għandhom jiġu enumerati bhala subartikolu (3).

Emenda ta' l-artikolu 43 ta' l-Att prinċipali.

**101.** L-artikolu 43 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “kull regoli jew regolamenti magħmula bis-saħħa tiegħu,”, għandhom jidhlu l-kliem “kull regolamenti magħmula bis-saħħa tiegħu,”; u

(ii) minflok il-kliem “jew b’xi direttiva dwar l-assigurazzjoni,” għandhom jidhlu l-kliem “jew b’xi regola dwar l-assigurazzjoni,”; u

(b) fil-paragrafu (b) ta' l-artikolu (2) tiegħu, minflok il-kliem “b’direttiva dwar l-assigurazzjoni” jew “b’dik id-direttiva.”, għandhom jidhlu l-kliem “b’rekola dwar l-assigurazzjoni” jew “b’dik ir-regola.”, rispettivament. ”

Emenda ta' l-artikolu 44 ta' l-Att prinċipali.

**102.** Fis-subartikolu (1) ta' l-artikolu 44 ta' l-Att prinċipali, il-kliem “hlief kuntratt li jaqa’ taht il-klassi III tat-Tieni Skeda,” għandhom jithassru.

Sostituzzjoni ta' l-artikolu 46 ta' l-Att prinċipali.

**103.** Minflok l-artikolu 46 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Kuntratti ta' l-assigurazzjoni ma jistgħux jiġu nvalidati minn assigurator minkejja ksur ta' dan l-Att jew ta' l-Att ta' l-2006 dwar l-Intermedjarji fl-Assigurazzjoni.

46. Ebda kuntratt ta' assigurator ma jkun jista' jiġi meqjus null, jew ma jista' jiġi annullat minn assigurator, minhabba biss fil-fatt li, fiż-żmien li jkun sar il-kuntratt, kien hemm ksur ta' xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' l-Att ta' l-2006 dwar Intermedjarji fl-Assigurazzjoni, f'dan l-artikolu msejjaħ “l-Att”, jew ta' xi regolamenti magħmula bis-saħħa ta' dan l-Att jew ta' l-Att jew ta' xi regola dwar l-assigurazzjoni mahruġa taht dan l-Att jew xi regola dwar l-intermedjarji fl-assigurazzjoni mahruġa taht l-Att.”.

Emenda ta' l-artikolu 47 ta' l-Att prinċipali.

**104.** L-artikolu 47 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “b’direttiva dwar l-assigurazzjoni” għandhom jidhlu l-kliem “b’rekola dwar l-assigurazzjoni”; u



(b) fis-subartikolu (2) tieghu, minflok il-kliem “direttiva dwar l-assigurazzjoni,”, ghandhom jidhlu l-kliem “regola dwar l-assigurazzjoni.”

**105.** Fis-subartikolu (2) ta’ l-artikolu 48 ta’ l-Att prinċipali, minflok il-kliem “b’direttiva dwar l-assigurazzjoni” ghandhom jidhlu il-kliem “b’rekola dwar l-assigurazzjoni”. Emenda ta’ l-artikolu 48 ta’ l-Att prinċipali.

**106** Minnufih wara l-artikolu 48 ta’ l-Att prinċipali ghandu jidhol dan l-artikolu 48A ġdid li gej: Żieda ta’ l-artikolu 48A ġdid ma’ l-Att prinċipali.

“Disposizzjonijiet  
dwar Lloyd’s.

48A. (1) Għall-iskopijiet ta’ dan l-artikolu:

(a) “Lloyd’s” tfisser is-soċjeta’ u korporazzjoni mwaqqfa mil-Lloyd’s Act, 1871, tar-Renju Unit, u regolata bi jew taht il-Lloyd’s Acts, 1871 sa 1982, tar-Renju Unit jew xi liġi ohra li minn żmien għal żmien temenda jew tissostitwixxi l-istess;

(b) “sindakat” tfisser membru jew grupp ta’ membri ta’ Lloyd’s li jissottoskrivu kummerċ ta’ l-assigurazzjoni f’Lloyd’s permezz ta’ *managing agent* lil liema sindakat jinghata *syndicate number* minn jew taht l-awtorità tal-Kunsill ta’ Lloyd’s.

(2) Lloyd’s ghandha f’kull hin ikollha rappreżentant f’Malta li jkun residenti f’Malta u li jkun rappreżentant f’Malta ta’ Lloyd’s u ta’ kull wiehed mill-membri ta’ Lloyd’s. Ir-rappreżentant ghandu jinhatar b’ittra indirizzata lill-awtorità kompetenti miċ-*Chairman* ta’ Lloyd’s.

(3) Ir-rappreżentant ghandu, għall-finijiet ta’ dan l-Att, ikun awtorizzat biex jaġixxi b’mod ġenerali bhala rappreżentant ġudizzjarju ta’, u jaċċetta n-notifika ta’ kull document f’isem, Lloyd’s u ta’ kull wiehed mill-membri tagħha li jipprezenta atti ġudizzjarji fir-reġistru ta’ kull qorti jew awtorità simili f’Malta f’isem Lloyd’s jew xi wiehed mill-membri ta’ Lloyd’s. Ir-rappreżentant ġenerali ma jkunx personalment responsabbli għall-djun u obbligi ta’ Lloyd’s jew ta’ xi wiehed mill-membri tagħha.

(4) Ikun bizzejjed f’att ġudizzjarju (li ma jkunx rikors għall-hruġ ta’ xi mandat kawtelatorju jew eżekuttiv) ipprezentat minn jew kontra membri ta’ Lloyd’s in konnessjoni ma’ polza mahruġa minnhom li jiġi pprezentat f’isem ir-rappreżentant ta’ Lloyd’s f’Malta in rappreżentanza

ta' dawk il-membri kemm-il darba l-att ikun fih dikjarazzjoni li jkun qed jiġi pprezentat in konnessjoni ma' polza maħruġa minn membru ta' Lloyd's u jkun fih in-numru u d-data tal-polza li dwarha jkun ġie pprezentat l-att, in-numru ta' identifikazzjoni tas-sindakati li jkunu qedghin jissottoskrivu l-polza u, fejn ikunu maghrufa, l-ismijiet tal-membri ta' Lloyd's miġburin f'dawk is-sindakati. Dan is-subartikolu għandu japplika minkejja kwalunkwe disposizzjoni fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(5) Ir-rappreżentant ta' Lloyd's għandu fi żmien hamsa u erbghin jum minn meta huwa jipprezenta l-att ġudizzjarju, jew minn meta l-att jiġi lill-notifikat, skond il-każ, jipprezenta nota fl-atti ta' l-istess att ġudizzjarju li jkun ġie pprezentat kif hawn qabel imesemmi li jkun fiha l-ismijiet tal-membri miġburin fis-sindakati li jkunu qed jissottoskrivu l-polza u kull nota bħal dik għandha titqies bħala parti integrali mis-sentenza jew digriet li l-qorti tagħti wara li jkun ġie pprezentat dak l-att ġudizzjarju u dik is-sentenza jew dak id-digriet ikunu jorbtu lill-membri li jkunu ġew indikati fin-nota bl-istess mod li kienu jintrabtu bih li kieku isimhom kien ġie indikat fl-imsemmi att ġudizzjarju:

Iżda r-rappreżentant ta' Lloyd's ma jkunx obligat li jipprezenta nota bħal dik wara li jiġi ipprezentat xi att ġudizzjarju meta l-partikolaritajiet tal-membri ta' Lloyd's miġburin f'dawk is-sindakati jkunu diġà inklużi fl-att jew meta nota bħal dik tkun diġà giet ipprezentata fl-atti tal-proċedimenti.”.

Żieda ta' artikolu 48B ġdid ma' l-Att prinċipali.

**107.** Minnufih wara l-artikolu 48A ġdid ta' l-Att prinċipali għandu jidhol dan l-artikolu 48B ġdid li gej:

“ Hatra ta' intermedjarji ta' l-assigurazzjoni.

**48B.** Kull kumpannija awtorizzata għandha tuża s-servizzi ta' intermedjarji ta' l-assigurazzjoni li jkunu:

(a) rreġistrati taht l-Att ta' l-2006 dwar Intermedjarji fl-Assigurazzjoni; jew

(b) rreġistrati ma' awtorità regolatorja li tissorvelja l-impriza Ewropea ta' l-assigurazzjoni fi Stat Membru jew fi Stat ŻEE.”.

Emenda ta' l-artikolu 49 ta' l-Att prinċipali.

**108.** Fil-paragrafu (a) ta' l-artikolu 49 ta' l-Att prinċipali, minflok il-kliem “dwar riskji sitwati f'Malta u rabtiet f'Malta fejn Malta tkun il-pajjiż tar-rabta” għandhom jidhlu l-kliem “dwar riskji u rabtiet”.

**109.** Fis-subartikolu (1) ta' l-artikolu 50 ta' l-Att prinċipali, minflok il-kliem “xi regolati jew regolamenti magħmula bis-saħħa tiegħu,” għandhom jidhlu il-kliem “u xi regolamenti magħmula bis-saħħa tiegħu,”.

Emenda ta' l-artikolu 50 ta' l-Att prinċipali.

**110.** Minflok l-artikolu 54 ta' l-Att prinċipali għandu jidhol dan li ġej:

Sostituzzjoni ta' artikolu 54 ta' l-Att prinċipali.

“Setgħa li jinħarġu regolamenti taħt din it-Taqsima ta' l-Att.

54. Il-Ministru jista', wara li jikkonsulta lill-awtorità kompetenti, jaġmhel regolamenti biex jiġu implimentati aħjar id-disposizzjonijiet ta' din it-Taqsima, inkluż l-użu ta' xi htieġa jew disposizzjoni kif jista' jkun meħtieġ skond Direttiva, Regolament jew Deċiżjoni ta' l-Unjoni Ewropea jew kull mizura oħra simili.”.

**111.** Minflok is-subartikoli (2) u (3) ta' l-artikolu 59 ta' l-Att prinċipali, għandu jidhol dan li ġej:

Emenda ta' l-artikolu 59 ta' l-Att prinċipali.

(a) minflok is-subartikolu (2) tiegħu, għandu jidhol dan li ġej:

“(2) Informazzjoni miksuba mill-awtorità kompetenti jew mill-uffiċjali, impjegati jew aġenti tagħha għall-finijiet ta' xi disposizzjoni ta' dan l-Att, jew konformement miegħu, jew ta' xi regolamenti magħmulin tahtu, jew ta' xi regola dwar l-assigurazzjoni, jew fil-qadi ta' xi funzjoni taht xi disposizzjoni minn dawk imsemmija, tiġi trattata bħala kunfidenzjali u protetta mid-dmir ta' segretezza professjonali, u ma għandha tiġi żvelata lil ebda persuna oħra, hlief f' dawn il-kazijiet li ġejjin:

(a) meta t-tagħrif jiġi żvelat bil-ghan li jinbdew proċedimenti kriminali, jew xort'oħra għall-finijiet ta' dan, jew proċedimenti mill-awtorità kompetenti quddiem xi qorti taht dan l-Att;

(b) meta t-tagħrif jiġi żvelat bil-ghan li l-awtorità kompetenti jkollha l-kapaċità jew tiġi assistita fil-qadi jew fit-twertiq tal-funzjonijiet tagħha taht dan l-Att;

(ċ) meta t-tagħrif ikun sar disponibbli għall-pubbliku bis-saħħa tal-fatt li tiġi żvelata dwar xi ċirkostanza li fiha, jew għal xi fini li dwarha, l-iżvelar ma jkunx prekluz b'dan l-artikolu;

(d) meta xi sommarju jew gabra ta' informazzjoni li ssir b' mod li ma tkunx tista' tiġi aċċertata l-identità tal-persuna msemmija f'dak it-tagħrif;

(e) meta t-tagħrif jinghata lil awditur meta dak l-iżvelar ikun jgħin lill-awditur fl-eżerċizzju tal-funzjonijiet tiegħu taht l-artikoli 21 u 24;

(f) meta t-tagħrif jinghata lil attwarju meta dak l-iżvelar ikun jgħin lill-attwarju fl-eżerċizzju tal-funzjonijiet tiegħu taht l-artikolu 23;

Kap. 345.

(g) meta t-tagħrif jinghata lill-Bank Ċentrali ta' Malta jew lill-Awtorità dwar l-Elenku taht l-Att dwar is-Swieq Finanzjarji fl-eżerċizzju tal-funzjonijiet rispettivi tagħhom skond il-liġi;

(h) meta t-tagħrif jinghata lil dawk l-awtoritajiet oħra regolatorji, ġudizzjarji jew li jinforzaw, kemm lokali kemm barranin, meta dak l-iżvelar ikun mehtieg jew mitlub sabiex jiġu segwiti kwistjonijiet regolatorji serji jew qerq jew prevenzjoni ta' prosekuzzjoni ta' reati kriminali;

(i) meta t-tagħrif jiġi żvelat fi proċedimenti ċivili jew kummerċjali dwar il-falliment jew l-istralċ obligat ta' kumpannija awtorizzata sakemm dik l-informazzjoni ma tkunx tinvolvi lil terzi li jkunu involuti f'attentati biex isalvaw dik il-kumpannija, u li dawk il-korpi barranin li jkunu responsabbli għal-likwidazzjoni u l-falliment ta' persuna li jkollha awtorizzazzjoni jew liċenza ekwivalenti minn awtorità regolatorja barranija.”; u

(b) minflok is-subartikolu (3) tiegħu, għandu jidhol dan li ġej:

“(3) Bla hsara għad-disposizzjonijiet ta' l-artikolu 55, tagħrif miksub minn awtorità regolatorja barranija jista' jiġi biss żvelat lil persuna oħra, lil awtorità regolatorja barranija oħra, jew lil terzi oħra bl-approvazzjoni bil-quddiem ta' l-awtorità li tkun tat it-tagħrif.”.

Emenda ta' l-artikolu 61 ta' l-Att prinċipali.

**112.** L-artikolu 61 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “jew xi regoli jew regolamenti magħmula bis-saħha tiegħu”, għandhom jidhlu l-kliem “jew xi regolamenti magħmula bis-saħha tiegħu”; u

(b) fil-paragrafu (e) tiegħu, minflok il-kliem “jew il-paragrafu 4.1 ta’ l-Ewwel Skeda, skond kif ikun il-każ;”, għandhom jidhlu il-kliem “jew is-subartikolu (2) ta’ l-artikolu 48A ta’ l-Att, skond kif ikun il-każ;”.

**113.** Minflok il-paragrafu (a) tas-subartikolu (3) ta’ l-artikolu 62 ta’ l-Att prinċipali għandu jidhol dan li ġej:

Emenda ta’ l-artikolu 62 ta’ l-Att prinċipali.

“(3) (a) Id-disposizzjonijiet tas-subartikoli ta’ qabel għandhom japplikaw ukoll, *mutatis mutandis* għall-kumpanniji rreġistrati biex jaġixxu ta’ *managers* fl-assigurazzjoni u kumpanniji iskritti biex imexxu kummerċ ta’ *broking* fl-assigurazzjoni taht l-Att ta’ l-2006 dwar Intermedjarji fl-Assigurazzjoni u għalhekk ir-riferenzi f’dan l-artikolu għal “awtorizzat” u għal “kummerċ ta’ l-assigurazzjoni” għandhom jinkludu riferenzi għal “iskritti” u “attivitatiet ta’ kumpanniji iskritti bhala *managers* fl-assigurazzjoni u l-kummerċ ta’ *broking* fl-assigurazzjoni”, rispettivament.”.

**114.** L-artikolu 64 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 64 ta’ l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem “regoli u regolamenti”, kull fejn jidhru, għandha tidhol il-kelma “regolamenti”; u

(ii) fit-test Malti, fil-paragrafu (ċ) tiegħu, minflok il-kliem “maħluqa minn kumpannija ċellula” għandhom jidhlu l-kliem “maħluqa minn kumpannija ċellulari”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “u mhux iżjed minn hamest elef lira” għandhom jidhlu l-kliem “u mhux iżjed minn erbghin elf lira”;

(ċ) is-subartikoli (4), (5), (6) u (7) tiegħu, għandhom jiġu enumerati bhala (6), (9), (10) u (11) rispettivament;

(d) minnufih wara s-subartikolu (3) tiegħu, għandhom jidhlu dawn is-subartikoli godda (4) u (5) li ġejjin:

“(4) Il-Ministru jista’, wara konsultazzjoni ma’ l-awtorità kompetenti, jagħmel regolamenti biex jiddetermina

u jirregola xi materja li jkollha x'taqsam ma' attivitajiet ta' *finite reinsurance*, inkluzi kundizzjonijiet mandatorji li ghandhom jigu inkluzi f'kull kuntratt ta' *finite reinsurance*, u li jippreskrivi esigenzi dwar il-kontijiet, il-prudenza u l-informazzjoni statistika li jkunu jipprovdu ghall-ghemil ta' provizjonijiet tekniċi dwar il-margini ta' solvibbiltà u l-esigenzi dwar il-fond ta' garanzija minima li impriza ta' rijassigurazzjoni ghandha żzomm dwar attivitajiet ta' *finite reinsurance*.

(5) Il-Ministru jista', wara konsultazzjoni ma' l-awtorità kompetenti, jagħmel regolamenti biex jigu stabbiliti *special purposes vehicles* kif definiti mid-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni u li temenda d-Direttivi tal-Kunsill 73/239/KEE, 92/49/KEE, kif ukoll id-Direttivi 98/78/KE u 2002/83/KE, inkluzi l-kundizzjonijiet li taħthom l-attivitajiet ta' dawn l-*special purposes vehicles* ghandhom jigu mmexxija;"

(e) fis-subartikolu (6) tiegħu kif enumerat, minflok il-kliem "ta' xi regoli jew regolamenti" ghandhom jidhlu l-kliem "jew ta' xi regolamenti";

(f) minnufih wara s-subartikolu (6) tiegħu kif enumerat, ghandhom jidhlu dawn is-subartikoli godda li ġejjin:

"(7) Il-Ministru jista', wara konsultazzjoni ma' l-awtorità kompetenti, jagħmel regolamenti biex jigu implimentati ahjar id-disposizzjonijiet ta' dan l-Att, inkluż l-użu ta' xi hteġa jew disposizzjoni kif jista' jkun mehtieg skond Direttiva, Regolament jew Deċiżjoni ta' l-Unjoni Ewropea jew kull miżura oħra simili għall-finijiet ta' dan l-Att.

(8) Regolamenti jistghu jsiru taħt dan l-artikolu fir-rigward ta' xi materja li jkollha x'taqsam ma' trasferiment ta' kummerċ ta' l-assigurazzjoni; u r-regolamenti jistghu jagħmlu dawk l-eżenzjonijiet, kondizzjonijiet jew modifiki kif jista' jiġi speċifikat fihom dwar ċirkostanzi jew għanijiet differenti.";

(g) fis-subartikolu (9) tiegħu kif enumerat, minflok il-kliem "regoli jew regolamenti", kull fejn jidhru, ghandha tidhol il-kelma "regolamenti"; u

(h) fis-subartikolu (11) tieghu kif enumerat, minflok il-kliem “regoli jew regolamenti”, kull fejn jidhru, għandha tidhol il-kelma “regolamenti”.

**115.** Fl-artikolu 66 ta’ l-Att prinċipali, minflok il-kliem “jew xi regoli u regolamenti” għandhom jidhlu il-kliem “jew xi regolamenti”. Emenda ta’ l-artikolu 66 ta’ l-Att prinċipali.

**116.** L-artikolu 67 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 67 ta’ l-Att prinċipali.

(a) fis-subartikolu (2) tieghu,

(i) fil-paragrafu (a) tieghu, minflok il-kliem “jew xi regoli jew regolamenti magħmula bis-sahha tieghu,” għandhom jidhlu l-kliem “jew xi regolamenti magħmula bis-sahha tieghu,”;

(ii) fil-paragrafu (b) tieghu, minflok il-kliem “jew ta’ xi regoli jew regolamenti magħmula bis-sahha tieghu jew ta’ xi direttiva dwar l-assigurazzjoni; jew”, għandhom jidhlu l-kliem “jew ta’ xi regolamenti magħmula bis-sahha tieghu tahtu jew ta’ xi regola dwar l-assigurazzjoni; jew”;

(iii) fil-paragrafu (ċ) tieghu, minflok il-kliem “jew b’xi regoli jew regolamenti magħmula bis-sahha tieghu; jew”, għandhom jidhlu il-kliem “jew b’xi regolamenti magħmula bis-sahha tieghu; jew”;

(iv) fil-paragrafu (d) tieghu, minflok il-kliem “jew ta’ xi regoli jew regolamenti magħmula bis-sahha tieghu jew ta’ xi direttiva dwar l-assigurazzjoni; jew”, għandhom jidhlu il-kliem “jew ta’ xi regolamenti magħmula bis-sahha tieghu jew ta’ xi regola dwar l-assigurazzjoni; jew”; u

(v) fl-inċiż (i) of paragrafu (e) tieghu:

(aa) minflok il-kliem “jew ta’ xi regoli jew regolamenti magħmula bis-sahha tieghu,” għandhom jidhlu l-kliem “jew ta’ xi regolamenti magħmula bis-sahha tieghu,”; u

(bb) minflok il-kliem “jew ta’ xi direttiva dwar l-assigurazzjoni; jew”, għandhom jidhlu l-kliem “jew ta’ xi regola dwar l-assigurazzjoni; jew”;

(b) fil-proviso ghas-subartikolu (6) tieghu, minflok il-kliem “ma tistax tkun aktar minn penali finanzjarja ta’ hamest elef lira” ghandhom jidhlu l-kliem “ma tistax tkun aktar minn penali finanzjarja ta’ erbgħin elf lira”.

Emenda ta’ l-artikolu 68 ta’ l-Att prinċipali.

**117.** L-artikolu 68 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tieghu, minflok il-kliem “xi regoli jew regolamenti magħmula bis-sahħa tieghu”, ghandhom jidhlu l-kliem “xi regolamenti magħmula bis-sahħa tieghu”; u

(b) fis-subartikolu (2) tieghu, minflok il-kliem “xi regoli jew regolamenti magħmula bis-sahħa tieghu”, ghandhom jidhlu l-kliem “xi regolamenti magħmula bis-sahħa tieghu”;

Emenda ta’ l-artikolu 69 ta’ l-Att prinċipali.

**118.** L-artikolu 69 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) is-subartikoli (8) u (9) tieghu ghandhom jiġu enumerati bhala (9) u (10) rispettivament; u

(b) minnufih wara is-subartikolu (7) tieghu, ghandu jidhol dan is-subartikolu ġdid li ġej:

“(8) Ir-riferenzi kollha għad-direttivi dwar l-assigurazzjoni mahruġa mill-awtorita’ kompetenti taht is-subartikolu (3) ta’ l-artikolu 4 ta’ l-Att f’licenzi, avvizi, deċiżjonijiet jew atti oħra li saru jew ġew mehuda mill-awtorita’ kompetenti u kull referenza f’xi liġi jew regolamenti għad-direttivi dwar l-assigurazzjoni għandha titqies bhala riferenzi għal regola dwar l-assigurazzjoni.”.

Thassir ta’ l-Ewwel Skeda ta’ l-Att prinċipali.

**119.** L-Ewwel Skeda li tinsab ma’ l-Att prinċipali għandha tithassar.

Emenda tat-Tieni Skeda li tinsab ma’ l-Att prinċipali.

**120.** It-Tieni Skeda li tinsab ma’ l-Att prinċipali, għandha tiġi emendata kif ġej:

(a) f’paragrafu 1 tieghu, minflok il-kliem “direttiva dwar l-assigurazzjoni”, ghandhom jidhlu l-kliem “regola dwar l-assigurazzjoni”;

(b) f’paragrafu 2 tieghu:



(i) fil-klassi II, “Żwieg u twelid”, taht l-intestatura “Deskrizzjoni”:

(a) minflok il-kliem “li jista’ jiġi speċifikat bid-direttiva dwar l-assigurazzjoni,” ghandhom jidhlu l-kliem “li jista’ jiġi speċifikat bir-regola dwar l-assigurazzjoni.”; u

(b) il-kliem “izda esklużi (f’kull każ) kuntratti taht il-klassi III ta’ din l-Iskeda.” ghandhom jithassru;

(ii) fil-klassi III, “*Linked long term*”, taht l-intestatura “Deskrizzjoni”, il-kliem “jew kuntratti li jipprovdu somma maż-żwieg jew mat-twelid ta’ tarbija” ghandhom jithassru.

(iii) fis-sub-paragrafu (a) tal-klassi IV, “Sahha permanenti”, taht l-intestatura “Deskrizzjoni”, minflok il-kliem “li jista’ jkun speċifikat bid-direttiva dwar l-assigurazzjoni,” ghandhom jidhlu l-kliem “li jista’ jkun speċifikat bir-regola dwar l-assigurazzjoni.”;

(iv) fil-klassi VIII, “Assigurazzjoni kollettiva”, taht l-intestatura “Deskrizzjoni”, minflok il-kliem “li tista’ tkun speċifikata bid-direttiva dwar l-assigurazzjoni”, ghandhom jidhlu l-kliem “li tista’ tkun speċifikata bir-regola dwar l-assigurazzjoni”; u

(v) fil-klassi IX, “Assigurazzjoni soċjali”, taht l-intestatura “Deskrizzjoni”, minflok il-kliem “li tista’ tkun speċifikata bid-direttiva dwar l-Assigurazzjoni”, ghandhom jidhlu l-kliem “li tista’ tkun speċifikata bir-regola dwar l-assigurazzjoni”;

**121.** Ir-Raba’ Skeda li tinsab ma’ l-Att prinċipali ghandha tithassar.

Thassir tar-Raba’ Skeda li tinsab ma’ l-Att prinċipali.

## TAQSIMA XVI

### EMENDI GHALL-ATT LI JIRREGOLA FONDI SPEĊJALI, KAP. 450

Emendi għall-Att li jirregola Fondi Speċjali, Kap. 450.

**122.** (1) Din it-Taqsima temenda u għandha tinqara u tinftiehem haġa waħda ma' l-Att li jirregola Fondi Speċjali, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali" .

(2) Id-disposizzjonijiet ta' din il-Parti għandhom jidhlu fis-seħh f'tali ġurnata li l-Ministru responsabbli għall-finanzi, jista', permezz ta' avviż fil-Gazzetta jistabilixxi, u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti jew għanijiet differenti ta' din it-Taqsima.

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

**123.** L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-tifsira "dokument ta' l-iskema" minflok il-kliem "il-kuntratt" għandhom jidhlu l-kliem "l-istrument";

(b) fit-tifsira "*manager* ta' l-assi" minflok il-kliem "servizzi ta' investiment diskrezzjonarji jew mhux diskrezzjonarji lil" għandhom jidhlu l-kliem "s-servizz ta' investiment ta' amministrazzjoni ta' investimenti" ; u

(ċ) fit-tifsira "skema" minflok il-kliem "tfisser skema jew arrangament stabbilit b'kuntratt li jirregola d-drittijiet u r-responsabbiltajiet ta' l-amministratur ta' l-iskema għal min jirtira u l-kontributor għalih, u" għandhom jidhlu l-kliem "tfisser skema jew arrangament li jkun reġistrat taht dan l-Att".

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

**124.** Is-subartikolu (1) ta' l-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b), minflok il-kliem "għandhom ikunu" għandhom jidhlu l-kliem "jistgħu jkunu"; u

(b) fil-paragrafu (i), minflok il-kliem "l-uditor, jew ta' l-attwarju ta' l-Iskema;" għandhom jidhlu l-kliem "l-uditor, l-attwarju ta' l-Iskema jew xi parti oħra fl-Iskema;".

Emenda ta' l-artikolu 17 ta' l-Att prinċipali.

**125.** L-artikolu 17 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (1) ghandu jiġi sostitwit bis-subartikolu li ġej:

(1) Ebda persuna ma ghandha tipprovdi fond jew skema għal min jirtira bis-servizzi amministrattivi deskritti fl-artikoli 18 u 19, servizzi ta' *trustee* jew xi servizzi oħra skond ma l-Awtorità tista' tispeċifika, kemm-il darba dik il-persuna ma tkunx reġistrata taht dan l-Att biex taġixxi bħala amministratur ta' fond għal min jirtira jew amministratur ta' skema għal min jirtira, skond il-każ, jew kemm-il darba dik il-persuna ma tkunx mod ieħor reġistrata ma' l-Awtorità biex tipprovdi dawk is-servizzi.”; u

(b) minnufih wara s-subartikolu (6) ghandu jizdid is-subartikolu (7) ġdid li ġej:

“(7) Id-disposizzjonijiet ta' dan l-Att li huma applikabbli għal amministraturi ta' skema għal min jirtira u għal amministraturi ta' fond għal min jirtira, skond il-każ, għandhom jgħoddu *mutatis mutandis* għal persuni li jipprovdu servizzi ta' *trustee* jew xi servizzi oħra skond is-subartikolu (1) ta' dan l-artikolu kemm-il darba l-Awtorità ma tiddeċidix xort' oħra. L-Awtorità tista' tohroġ direttivi biex tirregola l-attivitajiet ta' *trustees* li jipprovdu servizzi ta' *trustee* taht dan l-Att u tista' timponi dawk il-kondizzjonijiet li jidhrilha xierqa rigward is-servizzi provduti minn *trustee* jew *trustees* fil-kuntest ta' Skema.”.

**126.** Is-subartikolu (1) ta' l-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

(a) fil-paragrafu (a) minflok il-kliem “l-kontribuzzjonijiet kollha għall-fond għal min jirtira skond” għandhom jidhlu l-kliem “l-kontribuzzjonijiet kollha skond” ;

(b) fil-paragrafu (c) minflok il-kliem “tad-dokument ta' l-iskema;” għandhom jidhlu l-kliem “tad-dokument ta' l-iskema u li l-hruġ kollu jsir skond id-dokument ta' l-iskema;” ;

(c) minflok il-paragrafu (d) ghandu jidhol il-paragrafu li ġej:

“(d) żamma tal-kustodja ta' l-attiv;” ;

(d) fil-paragrafu (h):

(i) minflok il-kliem “fl-ishma ta’ fond għal min jirtira jew f’fondi”, għandhom jidhlu l-kliem “f’ sigurtà li fiha l-iskema tista’ tiġi investita, inklużi l-ishma ta’ fond għal min jirtira jew fondi, skond ma jista’ jkun japplika,”; u

(ii) minflok il-kliem “dak il-fidi”, għandhom jidhlu l-kliem “dak il-fidi jew likwidazzjoni”.

Emenda ta’ l-  
artikolu 24 ta’ l-Att  
prinċipali.

**127.** Is-subartikolu (1) ta’ l-artikolu 24 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “tipprovdi servizzi ta’ maniġġar ta’ investimenti diskrezzjonarji jew mhux diskrezzjonarji li jikkostitwixxu servizzi ta’ investment lil” għandhom jidhlu l-kliem “timmaniġġa investimenti ta’ ”; u

(b) minflok il-kliem “*manager* ta’ l-assi skond dan l-Att” għandhom jidhlu l-kliem “*manager* ta’ l-assi, jew amministratur ta’ skema għal min jirtira debitament awtorizzat biex jipprovdi servizzi ta’ maniġġar ta’ investimenti, skond dan l-Att”.

Emenda ta’ l-  
artikolu 37 ta’ l-Att  
prinċipali.

**128.** Fl-artikolu 37 ta’ l-Att prinċipali, minflok il-kliem “tista’ tinvesti biss” għandhom jidhlu l-kliem “tista’ tinvesti”.

Emenda ta’ l-  
artikolu 38 ta’ l-Att  
prinċipali.

**129.** L-artikolu 38 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) minflok il-kliem “Fond għal min jirtira għandu jissodisfa” għandhom jidhlu l-kliem “Fond għal min jirtira jew skema għal min jirtira għandhom jissodisfaw” ;

(b) fis-subartikolu (2):

(i) minflok il-kliem “Fond għal min jirtira għandu jharsu”, għandhom jidhlu l-kliem “Fond għal min jirtira jew skema għal min jirtira għandhom iharsu”; u

(ii) fil-paragrafu (d), minflok il-kliem “il-fond għal min jirtira għandu jikseb”, għandhom jidhlu l-kliem “il-fond għal min jirtira jew l-iskema għal min jirtira għandhom jiksbu” ;

(c) fis-subartikolu (3), minflok il-kliem “fond għal min jirtira għandu jharsu”, għandhom jidhlu l-kliem “fond għal min jirtira jew skema għal min jirtira għandhom iharsu” ; u

(d) fil-paragrafu (b) tas-subartikolu (4):

(i) minflok il-kliem “lill-fond għal min jirtira u”, għandhom jidhlu l-kliem “lil fond għal min jirtira jew skema għal min jirtira u” ; u

(ii) minflok il-kliem “mill-fond għal min jirtira.”, għandhom jidhlu l-kliem “ mill-fond għal min jirtira jew mill-iskema għal min jirtira.”.

**130.** Fil-paragrafu (b) tas-subartikolu (2) ta’ l-artikolu 50 ta’ l-Att prinċipali, minflok il-kliem “Kustodju ta’ Fond għal min Jirtira” għandhom jidhlu l-kliem “Kustodju ta’ Fond għal min Jirtira jew Kustodju ta’ Skema għal min Jirtira”. Emenda ta’ l-artikolu 50 ta’ l-Att prinċipali.

## SKEDA

(Artikolu 2)

**INTERMEDJARJI FL-ASSIGURAZZJONI U ATTIVITAJIET TA’  
INTERMEDJARJI FL-ASSIGURAZZJONI**

Ghall-finijiet tal-paragrafu 1 fit-Tielet Kolonna li hemm f’din l-Iskeda, “riskju” tfisser u tinkludi riskju sitwat f’Malta jew riskju sitwat barra minn Malta; u “riskju sitwat barra minn Malta”, dwar kuntratt ta’ assigurazzjoni, ghandha l-istess tifsir kif moghti lilha bis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att dwar il-Kummerc ta’ l-Assigurazzjoni.

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Intermedjarji fl-Assigurazzjoni Indipendenti	Intermedjarji fl-Assigurazzjoni Dipendenti	Attivitajiet ta’ Intermedjarji fl-Assigurazzjoni
<i>Broker</i> fl-assigurazzjoni		<p><b>1.</b> Attivitajiet professjonali ta’ persuni mnizzlin fl-Ewwel Kolonna ta’ din l-Iskeda li, b’libertà assoluta dwar l-ghazla taghhom ta’ assiguratari legittimi, ilaqqghu flimkien, bil-hsieb ta’ assigurazzjoni jew rijassigurazzjoni ta’ riskji jew irbijt, persuni li jkunu qed ifittxu assigurazzjoni jew rijassigurazzjoni u assiguratari jew riassiguratari, jaghmlu xoghol preparatorju biex jikkonkludu kuntratti ta’ assigurazzjoni jew rijassigurazzjoni u, meta jkun xieraq, jassistu fl-amministrazzjoni u twettiq ta’ dawk il-kuntratti, b’mod partikolari fil-każ ta’ <i>claim</i>;</p>
	Agent fl-assigurazzjoni	<p><b>2.</b> Attivitajiet ta’ persuni mnizzlin fit-Tieni Kolonna ta’ din l-Iskeda li jigu mahtura minn kumpannija awtorizzata biex ikunu l-agenti taghha dwar il-kummerc ta’ l-assigurazzjoni bl-awtorità li jaghmlu kuntratti ta’ l-assigurazzjoni f’isem il-kumpannija skond il-kundizzjonijiet tal-hatra;</p>
	<i>Manager</i> fl-assigurazzjoni	<p><b>3.</b> Attivitajiet professjonali ta’ persuni mnizzlin fit-Tieni Kolonna ta’ din l-Iskeda li jikkonsistu fl-aċċettazzjoni tal-hatra minn:</p>

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Intermedjarji fl-Assigurazzjoni Indipendenti	Intermedjarji fl-Assigurazzjoni Dipendenti	Attivitajiet ta' Intermedjarji fl-Assigurazzjoni
	Intermedjarju marbut fl-assigurazzjoni	<p>(a) assigurator jew rijassigurator biex tamministra xi parti mill-kummerċ tiegħu, jew biex teżerċita' il-funzjonijiet amministrattivi relattivi, jew biex ikun responsabbli biex iżzomm l-kontijiet jew <i>records</i> ohra ta' kull assigurator jew rijassigurator u f'dan il-kuntest "amministrazzjoni" tinkludi l-awtorità biex tagħmel kuntratti ta' assigurazzjoni f'isem l-assigurator jew l-rijassigurator skond il-kundizzjonijiet tal-hatra;u</p> <p>(b) <i>broker</i> fl-assigurazzjoni iskritt taht dan l-Att, ristrett għal kuntratti ta' assigurazzjoni li jirrigwardaw riskji sitwati barra minn Malta, biex jamministra xi parti mill-kummerċ tiegħu, jew sabiex jeżerċita' il-funzjonijiet amministrattivi fih jew biex teżerċita funzjonijiet amministrattivi relattivi, jew biex tkun responsabbli biex iżzomm l-kontijiet jew <i>records</i> ohra ta' dak il-<i>broker</i> fl-assigurazzjoni;</p> <p><b>4.</b> Attivitajiet ta' persuni mnizzlin fit-Tieni Kolonna ta' din l-Iskeda li jmxexxu attivitajiet ta' intermedjarji fl-assigurazzjoni f'isem kumpanniji awtorizzati, fil-każ li l-prodotti ta' l-assigurazzjoni li m'humiex in kompetizzjoni, li jaġixxu taht r-responsabbilita' shiha ta' dawk il-kumpanniji awtorizzati għall-prodotti li jikkoncernawhom rispettivament u li jistgħu jiġbru l-<i>premiums</i> jew ammonti mahsuba għall-detentur ta' polza, kemm- il darba ebda obligazzjoni dwar assigurazzjoni lejn jew min-naha tal-pubbliku ma tinghata bhala parti minn dawk l-attivitajiet.</p>

A 404

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 424 tal-25 ta' Lulju, 2006.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Skrivan tal-Kamra tad-Deputati*



## **INSURANCE INTERMEDIARIES ACT, 2006**

### **Arrangement of Act**

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Insurance Intermediaries and Insurance Intermediaries Activities

I assent.

(L.S.)

EDWARD FENECH ADAMI  
President

28th July, 2006

### **ACT No. XII of 2006**

*AN ACT to regulate the registration and enrolment of insurance intermediaries and insurance intermediaries activities.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

### **PART I**

#### **PRELIMINARY**

Short title.

**1.** (1) The short title of this Act is the Insurance Intermediaries Act, 2006.

(2) Parts I and IX and the Schedule after Part IX to this Act shall come into force on such date as the Minister responsible for finance may be notice in the Gazette establish.

Interpretation and scope.

**2.** (1) In this Act, unless the context otherwise requires -

“advertisement”, in relation to insurance intermediaries activities, means any form of advertising, whether done verbally or in writing and, without prejudice to the generality of the foregoing, includes advertising in a publication, the display of notices, signs, labels or showcards, by means of letters, circulars, prospectuses, catalogues, price lists or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of

recordings or in any other manner, and references to the issue of an advertisement shall be construed accordingly;

“Agents List” means the list of persons acting as insurance agents established and maintained under article 9 of this Act;

“Agents Register” means the insurance agents register established and maintained under article 7 of this Act;

“approved auditor” and “auditor” have the meaning assigned to them by subarticle (10) of article 28 of this Act;

“authorised company” means a company authorised or any person deemed authorised, under the Insurance Business Act, to carry on business of insurance and includes a company enrolled under this Act to act as an insurance agent of the company, as well as a European insurance undertaking having its head office in a Member State or an EEA State establishing a branch or providing services in Malta in exercise of a European right; Cap. 403.

“binding authority agreement” means an agreement between a member of Lloyd’s or a person acting on its behalf and a coverholder under which the coverholder may, in accordance with the terms thereof, accept risks or commitments on behalf of that member of Lloyd’s;

“body corporate” means an entity having a legal personality distinct from that of its members;

“branch” means premises of the company, other than its head office, from which insurance intermediaries activities are carried out;

“Brokers List” means the list of persons carrying on business as insurance brokers established and maintained under article 9 of this Act;

“Brokers Register” means the insurance brokers register established and maintained under article 7 of this Act;

“business of insurance” has the same meaning as is assigned to it by subarticle (1) of article 2 of the Insurance Business Act;

“business of insurance broking”, in relation to a registered insurance broker or an enrolled insurance broker, means the activities listed in paragraph 1 of the Third Column of the Schedule;

“cell” has the same meaning as is assigned to it by the Companies Act;

“cell company” has the same meaning as is assigned to it by the Companies Act;

“certificate of enrolment” -

(a) in relation to a person acting as an insurance agent, means a certificate issued by the competent authority under article 14 of this Act to the person evidencing enrolment of that person in the Agents List; and

(b) in relation to a person acting as an insurance manager, means a certificate issued by the competent authority under article 14 of this Act to the person evidencing enrolment of that person in the Managers List;

(c) in relation to a person carrying on business as insurance broker, means a certificate issued by the competent authority under article 14 of this Act to the person evidencing enrolment of that person in the Brokers List; and

(d) in relation to a person registered as a tied insurance intermediary in the Tied Insurance Intermediaries Company Register of any company, means a certificate issued by the competent authority under article 37 of this Act to the company enrolling that person evidencing enrolment of that person in the Tied Insurance Intermediaries List;

“certificate of registration”-

(a) in relation to an individual registered as an insurance agent, means a certificate issued by the competent authority under article 14 of this Act to that individual evidencing registration of that individual in the Agents Register;

(b) in relation to an individual registered as an insurance manager, means a certificate issued by the competent authority under article 14 of this Act to that individual evidencing registration of that individual in the Managers Register; and

(c) in relation to an individual registered as an insurance broker, means a certificate issued by the competent

authority under article 14 of this Act to that individual evidencing registration of that individual in the Brokers Register;

“class” -

(a) in relation to long term business, means any of the classes specified in the Second Schedule to the Insurance Business Act; and

(b) in relation to general business, means any of the classes specified in Part I of the Third Schedule to the Insurance Business Act;

“commitment” and “country of the commitment” have the same meanings as are assigned to them by subarticle (1) of article 2 of the Insurance Business Act;

“company” includes a local company and a foreign company;

“competent authority” means the body appointed under article 3 of the Insurance Business Act;

“conditions” includes obligations and restrictions;

“contract of insurance” and “contract” have the same meanings as are assigned to them by subarticle (1) of article 2 of the Insurance Business Act;

“control”, in relation to a body corporate, is the power to determine the financial and operating policies of the body corporate;

“controller”, in relation to a body corporate, is a person who, alone or together with others, exercises control of the body corporate;

“coverholder” means a person authorised under a binding authority agreement to accept or to issue documents related to contracts of insurance evidencing the acceptance of risks or commitments on behalf of a member of Lloyd’s granting such authority pursuant to such agreement;

“director”, in relation to a company, includes an individual occupying the position of a director of the company, by whatever name he may be called, empowered to carry out substantially the same functions in relation to the direction of the company as those

carried out by a director and, in respect of a foreign company, includes a member of a local board, an agent and the person designated as the representative of that company for the purpose of sub-paragraph (ii) of paragraph (b) of subarticle (1) of article 12 of this Act;

“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 17<sup>th</sup> March, 1993 and as amended from time to time;

“enrolled” -

(a) in relation to a person acting as an insurance agent, means enrolled in the Agents List under article 13 of this Act;

(b) in relation to a person acting as an insurance manager, means enrolled in the Managers List under article 13 of this Act;

(c) in relation to a person carrying on business as insurance broker, means enrolled in the Brokers List under article 13 of this Act; and

(d) in relation to a person registered as a tied insurance intermediary, means enrolled in the Tied Insurance Intermediaries List under article 37 of this Act,

and, in each case, “enrolment” shall be construed accordingly;

“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 1 of First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, Regulations and administrative provisions relating to the taking-up and pursuit of direct insurance other than life assurance or article 2 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, which has received authorisation under article 6 and article 4 of the said Directives respectively;

“financial year” shall be construed in accordance with subarticle (4) of article 27 of this Act;



“foreign company” means a company or a partnership *en commandite* or similar or equivalent body corporate, the capital of which is divided into shares, registered, incorporated or constituted outside Malta under the laws of any country provided that such company or partnership *en commandite* has complied with the provisions of any law which may from time to time be in force in Malta relating thereto;

Provided that, unless otherwise specified, the term “foreign company” shall not include a European insurance intermediary registered under article 3 of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation;

“functions” includes responsibilities, powers and duties;

“group” and “group of classes”, in relation to general business, means any group of classes or part classes specified in Part II of the Third Schedule to the Insurance Business Act;

“insurance agent” means a person carrying out activities listed in paragraph (2) of the Third Column of the Schedule; and in relation to Lloyd’s, means a person enrolled as such under article 13 of this Act appointed by or on behalf of a member of Lloyd’s to be its coverholder in Malta in respect of business of insurance with authority to enter into contracts of insurance on behalf of that member under the terms of a binding authority agreement;

“insurance broker” means a person carrying on business of insurance broking;

“insurance manager” means a person carrying out activities listed in paragraph (3) of the Third Column of the Schedule;

“insurance intermediary” means any natural or legal person who, takes up or pursues insurance intermediaries activities, and includes a person providing services ancillary to other business of insurance as may be prescribed;

“insurance intermediaries activities” means the activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim and includes the activities listed in paragraphs 1 to 4 of the Third Column of the Schedule and any other activities as may be prescribed;

“insurance intermediaries rule” means a rule in respect of insurance intermediaries activities which shall be binding on insurance intermediaries and others as may be specified therein, issued by the competent authority in virtue of subarticle (2) of article 4 of this Act;

“insurer” has the same meaning as assigned to it by subarticle (1) of article 2 of the Insurance Business Act;

“local company” means a limited liability company formed and registered under the Companies Act and includes, subject to subarticle (2) of this article, a partnership *en commandite*, the capital of which is divided into shares, formed and registered under the said Act;

“Malta’s international commitments” has the same meaning as assigned to it by subarticle (1) of article 2 of the Insurance Business Act;

“Managers List” means the list of persons acting as insurance managers established and maintained under article 9 of this Act;

“Managers Register” means the insurance managers register established and maintained under article 7 of this Act;

“Member State” means a Member State of the European Communities;

“Minister” means the Minister responsible for finance;

Cap. 373.

“money laundering” has the same meaning as is assigned to it by the Prevention of Money Laundering Act;

“officer”, in relation to a company, includes a director, partner, manager or company secretary or any person effectively acting in such capacity whether formally appointed or not;

“own funds” shall be construed in accordance with an insurance intermediaries rule made for the purpose of this Act to determine the amounts and components which make up the enrolled person’s own funds;

“prescribed” means prescribed by regulations under this Act;

“qualifying shareholding” means a direct or indirect holding in a company which represents ten per centum or more of the share

capital issued by such company or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the company, and “qualifying shareholder” shall be construed accordingly;

“registered” -

(a) in relation to a person registered as an insurance agent under article 13 of this Act, means registered in the Agents Register;

(b) in relation to a person registered as an insurance manager under article 13 of this Act, means registered in the Managers Register;

(c) in relation to a person registered as an insurance broker under article 13 of this Act, means registered in the Brokers Register; and

(d) in relation to a person registered as a tied insurance intermediary under article 37 of this Act, means registered in the Tied Insurance Intermediaries Company Register of any one or more companies,

and, in each case, “registration” shall be construed accordingly;

“representative” shall be construed in accordance with article 12 of the Insurance Business Act;

“risk situated in Malta” has the same meaning as is assigned to it by subarticle (1) of article 2 of the Insurance Business Act;

“Schedule” means the Schedule to this Act;

“tied insurance intermediary” means a person carrying on tied insurance intermediaries activities;

“tied insurance intermediaries activities”, in relation to a person registered as a tied insurance intermediary, means activities listed in paragraph 4 of the Third Column of the Schedule and any person who carries on insurance intermediaries activities, in addition to his principal professional activity, shall also be considered as a tied insurance intermediary acting under the responsibility of an authorised company for the products offered on its behalf if the insurance is complementary to the goods supplied or services provided in relation to his principal professional activity,

whether or not the person collects premiums or amounts intended for the policyholder concerned;

“Tied Insurance Intermediaries List” means the list of tied insurance intermediaries established and maintained under subarticle (1) of article 36 of this Act;

“Tied Insurance Intermediaries Company Register” in relation to an authorised company means the Tied Insurance Intermediaries Company Register established and maintained by a company under subarticle (1) of article 34 of this Act;

Cap. 330.

“Tribunal” means the Financial Services Tribunal referred to in article 21 of the Malta Financial Services Authority Act.

Scope.

(2) The objective of this Act is, in part, to implement the provisions of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, and any other Directive of the European Parliament and of the Council that may be issued from time to time on the regulation of insurance intermediaries which shall be interpreted and applied accordingly.

(3) The provisions of this Act shall apply to a partnership *en commandite* or to a similar or equivalent body corporate subject to such modifications as the competent authority may, from time to time, make in any provision thereof, which modifications shall not materially detract from the main object of the provisions so modified.

(4) In this Act and in any regulations made thereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.

## PART II

### REGULATORY POWERS

Powers of the  
Minister.  
Cap. 403.

**3.** (1) The competent authority appointed under article 3 of the Insurance Business Act shall carry out the functions of the competent authority under this Act and, in particular, shall ensure compliance with the provisions of this Act.

(2) The Minister may, after consultation with the competent authority, make regulations as may be required for carrying into effect any of the provisions of this Act and without prejudice to the generality of the foregoing, the Minister may, by such regulations, in particular, make provisions in respect of any one or more of the following matters -

(a) the implementation of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation;

(b) the transposition of any requirement or provision as may arise under a Directive, Regulation or Decision of the European Union or any other similar measure relevant for the purposes of this Act;

(c) the amendment or revocation of the Schedule;

(d) the payment by any person, body or cell created by a cell company, as the case may be, of any fees, duties and such other charges payable to the competent authority in respect of any matter provided for, by or under the Act, or any regulations made under this article;

(e) the registration or enrolment of persons, other than persons registered or enrolled by virtue of this Act, carrying out insurance intermediaries activities or providing services ancillary to business of insurance as may be prescribed;

(f) any matter relating to or connected with any provision contained in the Schedule;

(g) any matter that may or is to be prescribed under any provision of this Act;

(h) the administrative penalties in respect of infringements as may be prescribed which may be imposed and recovered by the competent authority without recourse to a court hearing; administrative penalties shall be due to the competent authority as a civil debt:

Provided that, an administrative penalty may not be greater than a financial penalty of forty thousand Maltese liri in respect of any infringement and, where an infringement continues, a further penalty not exceeding fifty Maltese liri for each day during which the infringement continues;

(i) the penalties or other punishments to which persons contravening or failing to comply with any provision of any regulation made under this Act shall become liable, being penalties of not less than one hundred Maltese liri and not exceeding forty thousand Maltese liri, in respect of any offence and in respect of a

continuing offence of a further penalty not exceeding one hundred Maltese liri for each day during which the offence continues;

(j) any matter incidental to or connected with any of the above;

(k) any matter relating to the establishment, co-ordination, amalgamation and otherwise of compensation schemes.

(3) The Minister may, after consulting the competent authority, make regulations exempting any person from all or any of the provisions of this Act or any regulations made thereunder, subject to such conditions or requirements including the requirement of other forms of registration or enrolment and notification procedures as may be prescribed.

(4) The Minister may also by regulations under this article, after consultation with the competent authority, extend and make applicable any of the provisions of this Act to any insurance intermediary activity as may be prescribed which in his opinion ought, in the public interest, to be regulated by such provisions.

(5) Regulations made under this article may make such exemptions, conditions or modifications as may be specified therein in respect of different cases, circumstances or purposes and may give the competent authority such power of adaptation of the regulations as may be specified therein.

(6) In the event of a doubt as to whether an activity constitutes the carrying out of insurance intermediaries activities, or whether such insurance intermediaries activities are or are not being carried on in Malta, the matter shall be conclusively determined by the competent authority.

(7) The exercise of any of the powers assigned under this article shall be subject to any obligations or restrictions arising from Malta's international commitments.

(8) Regulations made under this Act and any amendment or revocation of such regulations, may be published in the English language only.

Powers and duties of the competent authority.

**4.** (1) It shall be the duty of the competent authority to carry out the functions assigned to it by or under this Act and to ensure that persons, companies or insurance intermediaries, registered or enrolled in accordance with this Act and regulations made thereunder comply

with the provisions of this Act, any regulations made thereunder, with insurance intermediaries rules made by the competent authority in virtue of this Act and of any regulations made thereunder and with the conditions specified in certificates of registration or enrolment.

(2) The competent authority may make insurance intermediaries rules as may be required for carrying into effect any of the provisions of this Act and of any regulations made thereunder. The competent authority may amend or revoke such insurance intermediaries rules.

(3) Insurance intermediaries rules and any amendment or revocation thereof shall be officially communicated to the persons or companies concerned and be open to public inspection at the offices of the competent authority at all times during the normal working hours of the competent authority.

(4) Insurance intermediaries rules made by the competent authority in virtue of this Act may provide for different regulatory requirements to be applicable to different categories of insurance intermediaries; and without prejudice to insurance intermediaries rules required to be made under this Act and to the generality of the foregoing, the competent authority may, by such insurance intermediaries rules, in particular -

(a) determine, in relation to insurance intermediaries, what constitutes fitness and properness;

(b) determine, in relation to insurance intermediaries, the criteria of sound and prudent management;

(c) determine the information which insurance intermediaries shall disclose to persons seeking or making use of insurance intermediary services;

(d) determine the codes of conduct which may regulate any aspect of dealings between insurance intermediaries and insurance companies or between such intermediaries and persons seeking or making use of insurance intermediary services;

(e) determine, in relation to insurance intermediaries activities, the issuing of advertisements and the undertaking of any other promotional activities.

### PART III

#### REGISTRATION OR ENROLMENT OF INSURANCE AGENTS, INSURANCE MANAGERS AND INSURANCE BROKERS

Application of this Part to specified insurance intermediaries.

**5.** This Part of the Act applies to persons acting as insurance agents, insurance managers and persons carrying on business as insurance brokers, hereinafter referred to as “the intermediary”.

Registration or enrolment of insurance intermediaries.

**6.** (1) Subject to subarticle (3) of this article, no person shall act as an intermediary and carry on, or attempt to carry on, in or from Malta, insurance intermediaries activities unless such person is registered or enrolled under article 13 of this Act.

(2) The competent authority shall not grant registration or enrolment under this article to a person nor shall the competent authority permit such person to be registered or enrolled thereunder or to remain so registered or enrolled, unless it is satisfied that such person fulfils or complies with the requirements set out in this Part of the Act.

(3) This article shall not apply to a person, which is registered pursuant to Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation in a Member State or EEA State, other than Malta.

Register of insurance intermediaries.

**7.** The competent authority shall establish and maintain registers of persons carrying on the insurance intermediaries activities of insurance agents, insurance managers and insurance brokers, in this Act separately referred to as the “Agents Register”, the “Managers Register” or the “Brokers Register”, containing such particulars as the competent authority may determine from time to time, by an insurance intermediaries rule made for the purposes of this article, of all persons which are entitled under this Act to be registered therein and to apply in the manner determined by that rule to be so registered.

Qualifications for registration.

**8.** (1) A person shall be entitled to be registered in the “Agents Register”, the “Managers Register” or the “Brokers Register” if he satisfies the competent authority that -

(a) he is an individual;

(b) he is a fit and proper person to be so registered and to ensure the company’s sound and prudent management;



(c) he possesses the qualifications and fulfils or complies with the requirements determined by an insurance intermediaries rule made for the purposes of this article.

(2) A person shall not be entitled to carry out insurance intermediaries activities by virtue of his registration under this article unless he is a director or an employee of a company enrolled under article 13 of this Act.

**9.** The competent authority shall establish and maintain a list of persons carrying on insurance intermediaries activities of insurance agents, insurance managers and insurance brokers, in this Act separately referred to as the “Agents List”, the “Managers List”, or the “Brokers List”, containing particulars of all persons which are entitled under this Act to be enrolled therein and which apply in the manner determined from time to time by the competent authority in an insurance intermediaries rule made for the purposes of this article.

List of persons carrying on insurance intermediaries activities.

**10.** (1) Subject to paragraph (b) of this subarticle, the intermediary shall be entitled to be enrolled in the Agents List, Managers List or the Brokers List if, it satisfies the competent authority that:

General requirements for enrolment.

(a) in the case of an applicant which is a company:

(i) the applicant’s objects are limited to operations arising directly from insurance intermediaries activities listed in paragraphs (1), (2) and (3) of the Third Column of the Schedule, as applicable, and to matters or functions connected therewith or ancillary thereto, to the exclusion of all other commercial business, other than business determined by an insurance intermediaries rule made for the purposes of this article;

(ii) the applicant discloses to the satisfaction of the competent authority such information as the competent authority has requested of it in relation to persons who will, upon its enrolment, have any proprietary, financial or other interest in, or in connection with, the applicant;

(iii) all qualifying shareholders, controllers and all persons who will effectively manage the affairs or carry out the operations appropriate to the application are fit and proper persons to ensure its sound and prudent management;

(iv) the applicant’s own funds, whether in Maltese liri or in other currencies acceptable to the competent authority

are at all times not less than such amount appropriate for the kind of business to be carried on by it as may be determined by an insurance intermediaries rule made for the purposes under this Act and such own funds shall at all times be unencumbered;

(v) the applicant has at all times in its favour a policy of professional indemnity insurance or some other comparable guarantee, in each case acceptable to the competent authority, indemnifying it or any person employed by it or otherwise acting for it, to such amount, in such manner and in respect of such matters as the competent authority may from time to time determine;

(vi) the applicant submits to the satisfaction of the competent authority a scheme of operations appropriate to the application which shall include the particulars or proof as may be determined by an insurance intermediaries rule;

(b) in the case of an applicant who is an individual:

(i) indents (i) and (iii) of paragraph (a) of subarticle (1) of this article shall not apply; and

(ii) he shall be entitled to be enrolled in the Agents List, Managers List or the Brokers List if he satisfies the competent authority that –

(aa) he is a fit and proper person to be so enrolled and to ensure that the business is carried on in a sound and prudent manner;

(bb) he possesses the qualifications and fulfils or complies with the requirements determined by the Act or an insurance intermediaries rule made for the purposes of this article;

(cc) his activities are limited to operations arising directly from insurance intermediaries activities and matters and functions connected therewith or ancillary thereto, to the exclusion of all other commercial business other than business determined by an insurance intermediaries rule.

(2) Where close links exist between the intermediary and any other person, the competent authority shall:

(a) only grant enrolment if it considers that such close links do not prevent it from effectively exercising its supervisory functions; and

(b) refuse to grant enrolment if it considers that the laws, regulations or administrative provisions of any country, other than Malta, governing any person with whom the intermediary has close links, or their enforcement, prevent it from effectively exercising its supervisory functions.

(3) The competent authority may, from time to time, by means of an insurance intermediaries rule issued under this Act define the circumstances in which close links are to be regarded as existing between the intermediary and any other person.

(4) Where the application is for enrolment to carry on insurance intermediaries activities as an insurance agent or insurance manager, the applicant is required to produce proof to the satisfaction of the competent authority that such person holds an appointment in writing signed by a senior officer of an insurer or an insurance broker, as the case may be, for which the applicant desires to act designating the applicant to act in the name and on behalf of the company, or solely on behalf of the company, in the capacity specified in the appointment and in respect of matters and under the conditions specified in that appointment:

Provided that, where an application is for enrolment to act as an insurance manager, the appointment referred in this paragraph shall not constitute a prerequisite condition for granting enrolment in that behalf provided that the enrolled insurance manager shall not act for an insurer or an insurance broker, as the case may be, unless and until it produces proof to the satisfaction of the competent authority that it holds an appointment in writing from the company concerned to act on its behalf.

**11.** (1) In the case of an applicant which is a local company, such company shall be entitled to be enrolled in the:

Specific qualifications for enrolment in the case of local companies.

(a) Agents List if, in addition to the requirements of article 10 of this Act, the competent authority is satisfied that any one or more of the company's directors are registered in the Agents Register;

(b) Managers List if, in addition to the requirements of article 10 of this Act, the competent authority is satisfied that any one or more of the company's directors are registered in the Managers Register;

(c) Brokers List if, in addition to the requirements of article 10 of this Act, the competent authority is satisfied that any one or more of the company's directors are registered in the Brokers Register,

and the insurance intermediaries activities are carried on under the management of a registered person.

(2) Every person enrolled under article 13 of this Act shall make an application in writing to the competent authority before opening a branch or setting up or acquiring a subsidiary in Malta.

(3) The competent authority may permit a person enrolled as aforesaid to open a branch in Malta if it satisfied that the insurance intermediaries activities carried on by it from the branch are conducted by a registered person.

(4) No person enrolled under this Part of the Act may carry out insurance intermediaries activities or set up or acquire a subsidiary in any country outside Malta, except with the written consent of the competent authority.

Specific requirements for enrolment in the case of foreign companies.

**12.** (1) In the case of an applicant which is a foreign company, such company shall be entitled to be enrolled in the Agents List, Managers List or Brokers List if, in addition to the requirements of article 10 of this Act, the competent authority is satisfied that -

(a) the company is registered or permitted in the country where its head office is situated to carry on insurance intermediaries activities;

(b) the company has in Malta at all times -

(i) a branch; and

(ii) a representative:

Provided that, a company carrying on business as an insurance broker restricted to contracts of insurance relating to risks situated outside of Malta may, either in lieu of or in addition to opening a branch in Malta, appoint an insurance manager enrolled under the Act to manage such business; and as long as the insurance manager holds such appointment, the business of insurance broking shall be under the management of a registered insurance broker.

(2) In relation to a branch of a foreign company carrying on insurance intermediaries activities as may be prescribed, the insurance intermediaries activities shall be carried out from such branch by an individual who satisfies the following requirements -

(a) in the case of a company carrying on insurance intermediaries activities-

(i) the individual is registered in the Agents Register, Managers Register or Brokers Register;

(ii) the individual is a director of the company or has authority to act for the company and the insurance intermediaries activities are carried on under his management;

(iii) the individual is not an approved auditor, or a partner or an employee of an approved auditor of the company;

(b) in the case of a company carrying on other insurance intermediaries activities as may be prescribed, provisions as may be prescribed.

**13.** (1) An application for registration or enrolment under this article shall be made in such form and manner as the competent authority may from time to time determine.

Grant of registration or enrolment by competent authority to insurance intermediaries.

(2) The competent authority shall have the power to require an applicant to provide such information as it may deem necessary for the purpose of determining an application for registration or enrolment under this article.

(3) The competent authority may grant registration or enrolment under this article only if it is satisfied on the basis of the information required to be submitted under this Act and any information received by it, that registration or enrolment ought to be granted.

(4) Subject to the provisions of this Act, the competent authority may subject registration or enrolment made under this article to such conditions as it may from time to time deem fit to impose.

(5) The competent authority shall determine an application for registration or enrolment under this article within three months of receiving the information required to be submitted under this Act; and if it refuses to grant the registration or enrolment it shall inform the applicant in writing of the reasons for the refusal:

Provided that, in each case the competent authority may take such measures as it may deem necessary for the protection of the interest of the public.

Certificate of registration or enrolment of intermediaries.

**14.** (1) On granting registration or enrolment under article 13 of this Act, the competent authority shall issue to the applicant concerned a certificate of registration or enrolment in the form and manner as it deems appropriate evidencing -

(a) in the case of an application for registration, registration of the applicant in the Agents Register, Managers Register, or Brokers Register, as the case may be;

(b) in the case of an application for enrolment, enrolment of the applicant in the Agents List, Managers List or Brokers List, as the case may be.

(2) A certificate of registration or enrolment granted under this article or an official copy thereof shall be prominently displayed by the intermediary concerned at his, or its place or places of business, in a part thereof to which the public has access.

(3) The competent authority may by means of an insurance intermediaries rule made for the purposes of this article, determine the details to be included in the certificate of registration or enrolment.

#### **PART IV**

#### **POWERS OF INTERVENTION IN RELATION TO PERSONS ENROLLED UNDER PART III OF THIS ACT**

Automatic striking off of registration or enrolment of intermediaries.

**15.** (1) An intermediary registered or enrolled under this Act shall automatically be struck off the register or list, if -

(a) the intermediary does not commence to carry on the insurance intermediaries activities pursuant to the registration or enrolment within twelve months of it being granted, or within such other period as may be specified in the registration or enrolment; or

(b) the intermediary is declared bankrupt or goes into liquidation or makes a composition with creditors of the intermediary or is otherwise dissolved; or

(c) the intermediary has ceased to operate as a result of a merger with another company carrying on insurance intermediaries activities or for any other reason whatsoever; or

(d) in the case of a foreign company enrolled in terms of article 13 of this Act, the overseas regulatory authority in the country of registration or where the head office is situated withdraws the registration or permission to carry on such activities.

(2) Paragraph (a) of subarticle (1) of this article shall not apply to a person enrolled to act as an insurance manager.

**16.** Without prejudice to anything contained in any other provision of this Act, the competent authority may at any time suspend registration or enrolment or strike off the name of a registered or enrolled person from the Agents Register, Managers Register or Brokers Register, or the Agents List, Managers List or Brokers List if -

Power of the competent authority to suspend or strike the name off the register or list.

(a) any document or information accompanying an application for registration or enrolment, or any information given in connection therewith, is false, incorrect or misleading in any material particular, or the registered or enrolled person has concealed, or conceals from, or fails to notify to the competent authority any document or information or change therein which was the duty of the intermediary to reveal or to notify under this Act and any regulations made thereunder or any insurance intermediaries rule; or

(b) it considers that the registered or enrolled person does not fulfil the requirements of, or has contravened, any of the provisions of this Act and any regulations made thereunder, or any insurance intermediaries rule, or has failed to satisfy or comply with any condition to which he or it, or the registration or the enrolment, is subject by virtue of or under this Act; or

(c) it considers that the registered or enrolled person is unfit to retain his or its name in the Agents Register, Managers Register, Brokers Register or the Agents List, Managers List or Brokers List; or

(d) the enrolled company is no longer managed in a sound and prudent manner to retain its name in the Agents List, Managers List or Brokers List; or

(e) it receives a written request so to do by the registered or enrolled person; or

(f) the enrolled person no longer possesses the required own funds as applicable; or

(g) the enrolled person fails to pay the annual continuance of registration or enrolment fee when due; or

(h) the registered or enrolled person is declared bankrupt or the enrolled company goes into liquidation or makes a composition with its creditors or is otherwise dissolved; or

(i) the enrolled company ceases to have on its board of directors any one person who is a registered person; or

(j) it considers that, by reason of the manner in which the registered or enrolled person is carrying on insurance intermediaries activities, or for any other valid reason, the interest of the insurance industry or of the public is threatened; or

(k) the registered individual or the enrolled person has misappropriated or converted to his or to its own use or illegally withheld monies held, or required to be held, by him or by it in a fiduciary capacity; or

(l) the registered or enrolled person is convicted by any court of law of any criminal offence, unless it is an offence which, owing to its trivial nature or the circumstances under which it was committed, does not render it or him unfit to have his name in the Agents Register, Managers Register or Brokers Register or the Agents List, Managers List or Brokers List; or

(m) the registered or enrolled person is considered by the competent authority to have carried on insurance intermediaries activities in an unprofessional manner; or

(n) the competent authority is prevented from exercising its supervisory functions effectively because of the existence of close links as may be defined by means of an insurance intermediaries rule made under this Act.

Notification of  
intention of  
suspension or  
striking a name off  
the register or list.

**17. (1)** Subject to the following provisions of this article, where the competent authority intends to suspend a registration or enrolment or strike the name of a registered or enrolled person off the Agents Register, Managers Register or Brokers Register, or the Agents List, Managers List or Brokers List, it shall give the person concerned notice in writing setting out the reasons for its intention to do so.



(2) Every notice given under subarticle (1) of this article shall state that the person concerned may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight hours and not longer than fifteen days), make representations in writing to the competent authority giving reasons why the registration or enrolment should not be suspended or the name of the person struck off the Agents Register, Managers Register or Brokers Register, or the Agents List, Managers List or Brokers List, as applicable, and the competent authority shall consider any representations so made before arriving at a final decision.

(3) The competent authority shall notify in writing its final decision to the person concerned.

(4) On notification by the competent authority to a person that his or its name has been suspended or has been struck off the Agents Register, Managers Register or Brokers Register or the Agents List, Managers List or Brokers List, the intermediary shall forthwith surrender to the competent authority the certificate of registration or enrolment, and any official copies thereof; and in each case, the competent authority may take such other measure as it may deem necessary to safeguard the interests of insureds, policyholders, creditors or other interested persons.

(5) Where the competent authority has suspended the registration or enrolment or struck off the name of a person from the Agents Register, Managers Register or Brokers Register or the Agents List, Managers List or Brokers List on any of the grounds specified in article 16 of this Act, it may, if it so elects give publicity to such suspension or striking off in a manner it deems appropriate.

(6) The competent authority shall have power to order that all expenses, incurred by it in relation to such publicity, or such part thereof, as it deems appropriate, shall be paid by the person concerned; and any sum so due shall be recoverable by the competent authority in the same manner as an administrative penalty imposed under this Act.

**18.** (1) Where the name of a person has been struck off the Agents Register, Managers Register or Brokers Register or the Agents List, Managers List or Brokers List, in pursuance of a decision under article 16 of this Act, the name of that person shall not again be entered in the register or list unless -

Restoration of a name struck off the register or list.

(a) otherwise ordered by the Tribunal; or

(b) in the absence of such order, the competent authority, on an application made to it in that behalf, otherwise decides.

(2) The competent authority shall determine an application for restoration of a name of a person to the Agents Register, Managers Register, or Brokers Register or the name of an enrolled person to the Agents List, Managers List or Brokers List under this article within three months of receiving the information required to be submitted under this Act as if the application were an application made under article 13 of this Act; and if it refuses to restore a name of an individual or of a company to the register or list, it shall inform the applicant in writing of the reasons for the refusal.

(3) Subarticle (2) of this article shall not apply where the restoration of a name of a person to the Agents Register, Managers Register, and Brokers Register or the Agents List, Managers List or Brokers List is made by an order of the Tribunal.

Power of the competent authority to protect the public interest.

**19.** (1) Without prejudice to the powers conferred to the competent authority under article 16 of this Act, the competent authority may, where it is satisfied that sufficient serious circumstances exist, proceed to take one or more of the following measures:

(a) require the intermediary forthwith to take such steps as the competent authority may consider necessary to rectify or remedy the circumstances;

(b) appoint a person to advise the intermediary in the proper conduct of its business;

(c) appoint a person to take charge of the assets of the intermediary, or any portion of them, for the purposes of safeguarding the interests of insureds, policyholders, creditors or other interested persons and, in the case of a local company, shareholders of the company;

(d) appoint a person to assume control of the business of the intermediary, either to carry on that business or to carry out such other function or functions in respect of such business, or part thereof, as the competent authority may direct;

(e) issue an order for the dissolution and winding up of the enrolled company or, in the case of a foreign company, for the winding up of its business in Malta;

(f) appoint a competent person to act as liquidator for the purpose of winding up the affairs of the enrolled company;

(g) fix the remuneration to be paid by the intermediary to any person appointed under this article;

(h) require the intermediary to submit a financial recovery plan if it considers that the interest of insureds, policyholders, creditors or other interested persons are likely to be prejudiced owing to a deterioration in the financial position of the intermediary;

(i) require a registered or enrolled person to remove the word “insurance” as part of his or its description or title and not make use of such word on any letter paper, in any notice or advertisement, or in any another similar manner;

(j) do such other act or require the doing of such other thing as it may deem appropriate in the circumstances,

and having proceeded in any one or more of the manners aforesaid, the competent authority may further proceed in any one or more of such manners, whether in addition thereto or in substitution thereof.

(2) Where a person is appointed by the competent authority -

(a) under paragraph (b) of subarticle (1) of this article, it shall be the duty of the intermediary to act in accordance with the advice given by such person unless and until the competent authority, on representations made to it, directs otherwise;

(b) under paragraph (c) of subarticle (1) of this article, the intermediary shall deliver to such person all the assets of which he is placed in charge, and all the powers, functions and duties of the intermediary in respect of those assets, and in relation to a company, whether exercisable by the company in general meeting, or by the directors, or by any other person, including the legal and judicial representation of the intermediary, shall be exercisable by and vest in the person appointed under the said paragraph to the exclusion of any other person;

(c) under paragraph (d) of subarticle (1) of this article, the intermediary shall submit the business to the control of such person and shall provide him with such facilities as he may require the intermediary to provide him to carry on that business or to carry out the functions assigned to him under the said paragraph; and all the powers, functions and duties of the intermediary, and in relation to a company whether exercisable by the intermediary in general meeting, or by the directors, or by any other person, including the

legal and judicial representation of the intermediary in all matters, shall be exercisable by and vest in him to the exclusion of any other person;

(d) under paragraph (f) subarticle (1) of this article, such person shall be the liquidator of the intermediary for all purposes of law to the exclusion of any other person.

(3) In the case of a foreign company, the branches and offices in Malta of that company shall, if the competent authority so directs and to the extent it so directs be deemed to constitute a separate company.

## PART V

### OBLIGATIONS OF PERSONS ENROLLED UNDER PART III OF THIS ACT

Monies held in a fiduciary capacity.

**20.** (1) Every person enrolled under article 13 of this Act shall keep monies held by him or it in a fiduciary capacity separate from his or its own monies and shall, in respect of those monies, maintain separate accounts in accordance with requirements determined by an insurance intermediaries rule made for the purposes of this article.

(2) No person shall have or obtain any recourse or right against monies standing to the credit of the account referred to in subarticle (1) of this article in respect of a claim or right against an enrolled person until all proper claims arising out of insurance intermediaries activities against those monies have been satisfied, even in the event of bankruptcy of the individual or insolvency of the company, as the case may be.

Fidelity bonds required of insurance intermediaries.

**21.** (1) Without prejudice to article 20 of this Act, every person enrolled under article 13 of this Act shall effect a fidelity bond in a specified form, as respects the insurance intermediaries activities carried on by the intermediary concerned, in such circumstances, to such value, in such manner and under such conditions as may be determined by an insurance intermediaries rule made for the purposes of this article.

(2) The bond referred to in subarticle (1) of this article shall provide that in the event of the inability or failure of the enrolled person to meet his or its financial obligations in relation to any sums of money received by him or it from, or on behalf of, his or its clients, a sum of money will become available to a person nominated or approved by the competent authority, to be applied for the benefit of any client of the

enrolled person who has incurred loss or liability because of the inability or failure of the enrolled person to meet such financial obligations.

**22.** The provisions of articles 20 and 21 of this Act shall not apply to a person enrolled as an insurance manager for so long as such person holds no appointment from any insurer or an insurance broker for so acting.

Exemptions applicable to insurance managers.

**23.** Every enrolled company shall, not later than the end of January of each year, notify in writing the competent authority in such manner as the competent authority may require, the name and the other particulars as it may also require, of every director and employee of the company who are registered in the Agents Register, Managers Register or Brokers Register; and during the following twelve months, the company shall give notice in writing to the competent authority of any change that may, from time to time, occur among such directors and employees and such notice shall be given within such period as may be specified by an insurance intermediaries rule.

Notification of persons registered in the register.

**24.** (1) Every enrolled company shall, not later than four months from the date of closing of its financial year, or at any other time as may exceptionally be authorised in writing by the competent authority, forward to the competent authority a copy of its audited financial statements drawn up -

Submission of audited financial statements and income statements.

(a) in the case of a local company, in accordance with the provisions of the Companies Act; and

Cap. 386.

(b) in the case of a foreign company, in accordance with the provisions of the laws of the country where the registered office or head office of the company is situated governing the financial statements of such companies.

(2) Every enrolled person who is an individual shall provide income statements drawn up in a manner as determined by an insurance intermediaries rule made for the purposes of this article and such statements shall be forwarded to the competent authority within such period as may be specified in the rule.

**25.** (1) Subject to the following subarticles, an enrolled person which in any calendar year carries on insurance intermediaries activities shall, in respect of the insurance intermediaries activities so carried on by it, forward to the competent authority a statement relating to that business made out in the form, manner and content as the competent authority may, by an insurance intermediaries rule made for the purposes

Submission of business of insurance intermediaries statements.

of this article determine; and the date by which such statement shall be forwarded shall also be established by that rule.

(2) The statement required to be submitted under this article shall be verified in the manner required by the insurance intermediaries rule.

(3) The competent authority may at any time direct an enrolled person to submit to it such statement at such interval and for such period as it may specify in such rule.

Enrolled persons  
ceasing to carry on  
insurance  
intermediaries  
activities.

**26.** An enrolled person shall not cease to carry on, in Malta, insurance intermediaries activities except with the permission of the competent authority given in writing on an application made to it in that behalf in such manner as it may require, and in compliance with such conditions as it may deem proper to impose.

## PART VI

### FINANCIAL YEAR AND AUDITORS

Financial year of  
insurance  
intermediaries.

**27.** (1) A company enrolled under article 13 of this Act which is a local company shall, not later than three months from the date of a company's enrolment, notify in writing the competent authority of the financial year and, failing such notice, the financial year of the enrolled company shall terminate on the thirty-first day of December of each year.

(2) No enrolled company as aforesaid shall alter its financial year unless and until the competent authority has given its approval in writing on an application made to it in that behalf.

(3) Every foreign company applying for enrolment under article 13 of this Act shall, on application, notify in writing the competent authority of its financial year; and after enrolment under that article, where a foreign company alters its financial year, it shall forthwith inform in writing the competent authority of such change.

(4) For the purposes of this Act "financial year"-

(a) in relation to an enrolled company which is a local company, means an accounting period as is construed in accordance with articles 164 to 166 of the Companies Act;

(b) in relation to an enrolled company which is a foreign company, means an accounting period as is construed in accordance with the provisions of the laws of the country where the registered office or the head office of the company is situated governing the accounting period of such companies.

**28.** (1) Every company enrolled under article 13 of this Act shall each year appoint an approved auditor as auditor to the company whose duty shall be to report on the financial statements of the company examined by him and on financial statements prepared by the company.

Appointment, duties and termination of appointment of auditors.

(2) If the enrolled company fails to appoint an auditor as required by subarticle (1) of this article or at any time fails to fill any vacancy in the office of an auditor, the competent authority shall have the power to appoint an auditor for that company and shall fix the remuneration to be paid by that company to such auditor.

(3) The auditor's report shall include a statement as to whether the various requirements of this Act and of any regulations made thereunder and of any insurance intermediaries rule in respect of the enrolled company have been complied with and observed.

(4) Every auditor of an enrolled company shall have the right to demand such information or explanation as he deems necessary in the performance of his duties from any officer or employee of, or any person under an appointment from, that company.

(5) An auditor shall immediately give notice in writing to the competent authority if -

- (a) he resigns;
- (b) he does not seek to be re-appointed; or
- (c) he decides to qualify the audit report,

and, in the situations mentioned in paragraphs (a) and (b) of this subarticle, the auditor shall specify the reasons for so doing.

(6) An enrolled company shall give notice in writing to the competent authority immediately it receives notice of a resolution intended to be put before the company's annual general meeting to appoint as an auditor a person other than the retiring auditor or otherwise providing expressly that the retiring auditor shall not be reappointed.

(7) Where, for any reason whatever, the appointment of an auditor comes to an end, the enrolled company shall, not later than fourteen days from the termination of such appointment, give notice in writing to the competent authority stating reasons for such termination.

(8) The competent authority may require an enrolled company to change its appointed auditor where, in the competent authority's opinion, such auditor is considered unfit for this appointment, at any time during his term of office.

(9) Before requiring an enrolled company to change the appointed auditor in the circumstances mentioned in subarticle (8) of this article, the competent authority shall notify in writing its intention to the company and the auditor concerned stating reasons for requiring such change and giving the auditor the opportunity to submit, in writing, within fourteen days from the date of serving of such notice, the reasons why his appointment with the company should not be terminated.

(10) For the purposes of this Act, an approved auditor shall be a person who is qualified to be an auditor in accordance with the Companies Act and holds the authorisation of the competent authority to act as auditor issued to him under the Insurance Business Act.

(11) Notwithstanding anything contained in the foregoing subarticles, the competent authority may, in the case of a foreign company, approve such alternative arrangements as it thinks reasonable and which do not materially detract from the main objects of this article, and where such arrangements have been carried out, the provisions of this article shall not apply to the extent that they are replaced by such arrangements.

(12) If, in his capacity as auditor of an enrolled company or due to a direct request by the competent authority under this Act, an auditor becomes aware of any matter which relates to and may have a serious adverse effect upon the stability and soundness of the company or the integrity of the insurance intermediaries activities carried on in Malta, he shall immediately inform the competent authority through the intermediary's management or, if circumstances so warrant, directly to the competent authority.

(13) For the purposes of subarticle (12) of this article, any matter which relates to and may have a serious adverse effect is any matter that:



(a) is likely to lead to a serious qualification or refusal of the auditor's report on the accounts of the company; or

(b) gravely impairs the company's ability to continue as a going concern or to continue carrying on the activities in respect of which it is enrolled; or

(c) may be prescribed by the Minister.

(14) An auditor of an enrolled company shall likewise have a duty to report to the competent authority any facts and decisions which relate to or have a serious adverse effect upon the stability and soundness of the company or the integrity of the insurance intermediaries activities carried on in Malta, of which he becomes aware in his capacity as an auditor to an enrolled company having close links within the meaning of article 10 of this Act.

**29.** No duty, including the duty of professional secrecy, to which -

Communication by auditors etc. with the competent authority.

(a) an auditor of a company enrolled under article 13 of this Act may be subject, shall be regarded as contravened by reason of his communicating in good faith to the competent authority, whether or not in response to a request from it, any information or opinion on a matter of which the auditor has become aware in his capacity as auditor and which is relevant to any functions of the competent authority under the provisions of this Act or is required to be communicated by virtue of this Act;

(b) a person appointed to make a report under any provision of this Act may be subject, shall be regarded as contravened by reason of his communicating in good faith to the competent authority, whether or not in response to a request made by it, on any matter which relates to the business or affairs of an enrolled company in relation to which a report is made.

## PART VII

### PROVISIONS APPLICABLE TO INTERMEDIARIES CARRYING ON BUSINESS AS INSURANCE BROKERS

**30.** A local company enrolled under article 13 of this Act and carrying on business as an insurance broker, restricted to contracts of insurance relating to risks situated outside of Malta, may appoint an

Appointment of insurance managers by enrolled insurance brokers.

insurance manager enrolled under the Act to manage such business; and so long as the insurance manager holds such appointment, the business of insurance broking shall be under the management of a registered insurance broker.

Contracts of insurance relating to risks situated in Malta or to commitments where Malta is the country of the commitment.

**31.** (1) Subject to the following subarticles, except with the approval of the Minister given generally by order in the Gazette, or with the approval of the competent authority given specifically in writing, a contract of insurance relating to a risk situated in Malta or to a commitment where Malta is the country of the commitment negotiated, arranged or procured by an insurance broker on behalf of an insured person or a person to be insured shall be taken out with an authorised company.

(2) Where a contract of insurance is a contract of a general business class or part class – falling within group 3 of Part II of the Third Schedule to the Insurance Business Act, and such contract is a contract relating to a risk situated in Malta and is taken out with a Mutual Association, which is not a European insurance undertaking, that Mutual shall have to be a Mutual within the meaning of a “Mutual Association” as construed in accordance with subarticle (3) of article 6 of the said Act; and the Mutual shall have to satisfy or comply with the requirements of the insurance rule made for the purposes of the said article either on or before the date of commencement of such contract or not later than thirty days from the date of such commencement.

(3) Save as otherwise provided in subarticle (2) of this article, the provisions of this article shall not apply to -

(a) business of reinsurance;

(b) large risks as defined by Article 5 of the Second Council Directive 88/357/EEC of 22<sup>nd</sup> June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than the life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amends Directive 73/239/EEC.

Underwriting agreements.

**32.** (1) Subject to the following subarticles, any person enrolled in the Brokers List under article 13 of this Act may make or enter into any underwriting agreement with any authorised company.

(2) No person enrolled as aforesaid shall make or enter into any underwriting agreement unless, with respect to that underwriting agreement, the person complies with or satisfies such requirements as

the competent authority may by an insurance intermediaries rule made for the purpose of this article determine.

(3) Any person enrolled as aforesaid shall register with the competent authority any underwriting agreement made or entered into under this article in the form and manner as the competent authority may by an insurance intermediaries rule determine.

(4) No business of insurance shall be accepted under an underwriting agreement unless the underwriting agreement has been duly registered as aforesaid.

(5) The competent authority shall determine an application for registration of an underwriting agreement under this article within one month of receiving the information required to be submitted under the insurance intermediaries rule; and if it refuses to register the agreement it shall inform the applicant in writing of the reasons for the refusal.

(6) Subject to the provisions of this Act, the competent authority may subject registration of any underwriting agreement made under this article to such conditions as it may from time to time deem fit to impose.

(7) For the purposes of this article “underwriting agreement”, in relation to business of insurance, means an agreement between an authorised company and a person enrolled in the Brokers List under article 13 of this Act under which the enrolled person may, in accordance with the terms thereof, accept risks on behalf of the authorised company; and, in this context, any other arrangement, by whatever name it may be called, whose objects and purposes are similar to an underwriting agreement, for the purposes of this article, is deemed to be an underwriting agreement.

## **PART VIII**

### **REGISTRATION AND ENROLMENT OF TIED INSURANCE INTERMEDIARIES**

**33.** (1) Subject to subarticle (2) of this article, no person shall act as a tied insurance intermediary and carry out, or attempt to carry out in Malta tied insurance intermediaries activities unless such person is appointed, registered and enrolled in accordance with the provisions of this Act.

Restriction on persons for carrying out tied insurance intermediaries activities.

(2) This article shall not apply to a tied insurance intermediary, which is registered pursuant to Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation in a Member State or an EEA State, other than Malta.

Tied Insurance Intermediaries Company Registers.

**34.** (1) Subject to article 43 of this Act, every authorised company desirous of appointing a person to act on its behalf as a tied insurance intermediary shall establish and maintain a register of persons acting as tied insurance intermediaries, in this Act referred to as the “Tied Insurance Intermediaries Company Register”, containing the particulars as the competent authority may, from time to time, by an insurance intermediaries rule made for the purposes of this article, determine, of all persons who are entitled under this Act to be registered therein.

(2) Subject to the provisions of subarticle (1) of this article, every authorised company shall determine its own procedures for appointing and registering a person as a tied insurance intermediary in the Tied Insurance Intermediaries Company Register.

Qualifications for registration.

**35.** (1) A person shall be entitled to be registered by an authorised company in the Tied Insurance Intermediaries Company Register of the company if the company is satisfied that such person is fit and proper to carry out tied insurance intermediaries activities.

(2) A person shall not be entitled to carry out tied insurance intermediaries activities, by virtue of his registration under article 37 of this Act unless and until he is enrolled by the competent authority in the Tied Insurance Intermediaries List under that article.

List of persons carrying out tied insurance intermediaries activities.

**36.** (1) The competent authority shall establish and maintain a list of persons carrying out tied insurance intermediaries activities in this Act referred to as the “Tied Insurance Intermediaries List”, containing such particulars as the competent authority may, determine from time to time by an insurance intermediaries rule made for the purposes of this article of all persons who are, or which are, entitled under this article to be enrolled therein.

(2) It shall be the duty of an authorised company to enrol with the competent authority in the Tied Insurance Intermediaries List any person registered by it as a tied insurance intermediary in the Tied Insurance Intermediaries Company Register of the company under article 37 of this Act.

(3) On obtaining from the competent authority a certificate of enrolment under article 37 of this Act, an authorised company shall furnish the person, in whose name the certificate of enrolment is made out, with the certificate or an official copy thereof, issued to the company by the competent authority.

(4) Where a person enrolled as aforesaid carries out tied insurance intermediaries activities from a place of business or from any other place accessible to the public, that person shall display in a prominent position in that place in a part thereof to which the public has access, the certificate of enrolment or an official copy thereof issued by the competent authority under this article.

**37.** (1) Subject to the provisions of this Act, every authorised company desirous of appointing a person to act on its behalf as a tied insurance intermediary shall, under this article, appoint and register in the Tied Insurance Intermediaries Company Register of the company and enrol with the competent authority in the Tied Insurance Intermediaries List, any one or more persons to act on its behalf as tied insurance intermediaries and to carry out tied insurance intermediaries activities in the class or classes of long term business or the group or groups of classes of general business specified in their respective appointments and, where a person is not an individual, such person must itself have an individual who satisfies the requirements of subarticle (1) of article 35 of this Act:

Appointment, registration and enrolment of tied insurance intermediaries.

Provided that, a company is prohibited from appointing and registering in the Tied Insurance Intermediaries Company Register of the company a person which is -

- (a) a person registered in the Agents Register, Managers Register or Brokers Register under article 13 of this Act;
- (b) a person enrolled in the Agents List, Managers List or Brokers List under that article;
- (c) a company authorised under the Insurance Business Act to carry on business of insurance:

Provided further that a company is prohibited from appointing any person acting on its behalf as a tied insurance intermediary to carry out any tied insurance intermediaries activities within any class or group of classes of business of insurance as the competent authority may, from time to time, by an insurance intermediaries rule made for the purposes of this article determine to be a class or

group of classes of business within which no tied insurance intermediaries activities shall be carried out.

(2) Where an authorised company appoints and registers in the Tied Insurance Intermediaries Company Register of the company a person which is not an individual, and that person carries out tied insurance intermediaries activities from any one or more places of business, that person shall ascertain that tied insurance intermediaries activities so carried out by it from each such place of business are carried out only by an individual who satisfies the requirements of subarticle (1) of article 35 of this Act.

(3) Subject to subarticles (4) and (5) of this article, any person, other than a person mentioned in the first proviso to subarticle (1) of this article, may seek and obtain under this article appointment and registration in a Tied Insurance Intermediaries Company Register of an authorised company to carry out tied insurance intermediaries activities on behalf of that company.

(4) Where a person desires to seek appointment and registration in the Tied Insurance Intermediaries Company Register of more than one company authorised to carry on long term business, and where any class of long term business carried on by the companies concerned is of the same kind, such person shall, in respect of that class of business, seek and obtain appointment and registration to carry out tied insurance intermediaries activities relating to that kind of class of business only in the Tied Insurance Intermediaries Company Register of one of the companies concerned.

(5) Where a person desires to seek appointment and registration in the Tied Insurance Intermediaries Company Register of more than one company authorised to carry on general business, and where any class, or any group of classes, of general business carried on by the companies concerned is of the same kind, such person shall, in respect of that class, or that group of classes of business, seek and obtain appointment and registration to carry out tied insurance intermediaries activities relating to that class, or that group of classes of business only in the Tied Insurance Intermediaries Company Register of one of the companies concerned.

(6) No person who is an employee of an authorised company shall, solely by virtue of his employment by the company, require registration in the Tied Insurance Company Register of the company under this article.

(7) (a) On granting an application for enrolment under this article, the competent authority shall issue to the applicant concerned a certificate of enrolment evidencing enrolment of the person registered in the Tied Insurance Intermediaries Company Register of the applicant in the Tied Insurance Intermediaries List.

(b) The competent authority may by means of an insurance intermediaries rule made for the purposes of this article, determine the details to be included in the certificate of enrolment.

(8) Subject to the provisions of this Act, the competent authority may subject enrolment made under this article to such conditions as it may from time to time deem fit to impose.

(9) An authorised company shall at all times be responsible for any act or omission of its registered tied insurance intermediaries provided that such act or omission is an act or omission pertaining to a contract of insurance issued by the company or offered on its behalf through the services of such tied insurance intermediaries. For the purposes of this subarticle any reference to registered tied insurance intermediaries shall include a reference to past as well as present registered tied insurance intermediaries.

**38.** (1) Without prejudice to subarticle (3) of this article, every tied insurance intermediary, shall, in respect of monies held by him or it in relation to a policy of insurance, keep such monies held by him or it separate from his or its own monies and shall, in respect of those monies maintain separate accounts in accordance with requirements determined by an insurance intermediaries rule made for the purposes of this article.

Maintenance of  
separate accounts.

(2) No person shall have or obtain any recourse or right against monies standing to the credit of the account referred to in subarticle (1) of this article in respect of a claim or right against a person acting as a tied insurance intermediary until all proper claims arising out of insurance intermediaries activities against those monies have been satisfied, even in the event of bankruptcy of the individual or insolvency of the company, as the case may be.

(3) Notwithstanding the provisions of subarticles (1) and (2) of this article:

(a) monies received by the tied insurance intermediary from a person in relation to a contract of insurance shall be treated as having been paid to the company issuing or offering the contract, and on whose behalf the tied insurance intermediary carries on tied insurance intermediaries activities; and

(b) monies paid by the authorised company to the tied insurance intermediary, and intended for the policyholder, shall not be treated as having been paid to the policyholder until such monies are actually received by the policyholder concerned.

Striking name off  
Tied Insurance  
Intermediaries  
Company Register.

**39.** Subject to the provisions of article 40 of this Act and to the terms and conditions of any relevant tied insurance intermediaries appointment at any time and for any reason whatsoever -

(a) any authorised company may strike off the Tied Insurance Intermediaries Company Register of the company the name of any person registered in the said register;

(b) any person registered in the Tied Insurance Intermediaries Company Register of an authorised company may make an application in writing to the company concerned requesting the company to strike his name off the said register.

Striking name off  
Tied Insurance  
Intermediaries  
Company Register  
or the Tied  
Insurance  
Intermediaries List.

**40.** (1) Where an authorised company elects to strike the name of a person off the Tied Insurance Intermediaries Company Register of the company, the company shall forthwith notify in writing the person concerned and the competent authority specifying the date on which it elects to strike the name of that person off the register.

(2) Where an authorised company strikes the name of a person off the Tied Insurance Intermediaries Company Register of the company on grounds of unfitness and improperness or because the person concerned has acted fraudulently, or dishonestly, or in such manner as to cease to be trustworthy, the company shall also notify in writing the competent authority the reasons for so doing.

(3) On receiving a notification from an authorised company that the company has elected to strike the name of a person off the Tied Insurance Intermediaries Company Register of the company, the competent authority shall -

(a) if the striking of such name off the register is on grounds other than those specified in subarticle (2) of this article, as early as reasonably practicable, confirm in writing to the company concerned that the name of such person, in so far as it relates to that company, shall be struck off the Tied Insurance Intermediaries List as from the date specified in the company's notification;

(b) if the striking of such name off the register is on grounds specified in subarticle (2) of this article, before striking the name of such person off the Tied Insurance Intermediaries List, forthwith,



give the person concerned notice in writing setting out the reasons for so doing and the provisions of subarticles (2) and (3) of article 17 of this Act shall *mutatis mutandis* apply to a notice given under this article.

(4) Without prejudice to any action which the competent authority may deem appropriate under this Act or any other law, where the competent authority strikes the name of a person off the Tied Insurance Intermediaries List on the grounds specified in subarticle (2) of this article, the competent authority may give publicity to the striking of that name off the Tied Insurance Intermediaries List and -

(a) if the name of that person is registered in the Tied Insurance Intermediaries Company Register of any other company, the competent authority shall also forthwith notify in writing that other company and direct it to strike forthwith the name of that person off the Tied Insurance Intermediaries Company Register of that company and give the company the reasons for its direction;

(b) if the competent authority elects to give publicity to the striking of that name off the Tied Insurance Intermediaries List, the competent authority shall publish a notice giving publicity to that striking off in a manner it deems appropriate.

(5) The competent authority shall have power to order that all expenses incurred by the publication of a notice pursuant to this article, or such part thereof as it may deem appropriate, shall be paid by the person concerned; and any sum so due shall be recoverable by the competent authority in the same manner as an administrative penalty imposed under this Act.

(6) Where an authorised company receives in writing an application from a person registered in the Tied Insurance Intermediaries Company Register of the company requesting the company to strike the name of that person off the said register, the company shall without undue delay strike the name of that person off the said register and notify in writing the person concerned and the competent authority specifying the date on which it elects to strike the name of that person off the register.

(7) Where, on an application made to an authorised company under subarticle (6) of this article, the company refuses, or unduly prolongs the process, to strike the name of a person off the Tied Insurance Intermediaries Company Register of the company, the person concerned may refer the matter to the competent authority and the competent authority shall issue in writing to the company concerned those directives

it deems necessary to oblige the company to hasten the process to strike the name of that person off its register.

(8) On notification by the competent authority to an authorised company that the name of a person registered in the Tied Insurance Intermediaries Company Register of the company has been struck off the Tied Insurance Intermediaries List, the company concerned shall forthwith surrender to the competent authority the certificate of enrolment relating to that person, and any official copies thereof.

Protection of the public or other interest.

**41.** (1) Notwithstanding any provision of this Act, the competent authority may, at any time, on grounds of unfitness and impropriety or of protection of the public interest -

(a) refuse to enrol a person in the Tied Insurance Intermediaries List;

(b) strike the name of a person off the Tied Insurance Intermediaries List:

Provided that, in each case, the competent authority shall inform the company concerned in writing of the reasons for so doing.

(2) In each case the competent authority may take any other measure as it may deem necessary to safeguard the interests of insureds, policyholders, creditors or other interested persons.

Restoration of a name struck off the Tied Insurance Intermediaries List.

**42.** Where in pursuance of article 40 of this Act the name of a person has been struck off the Tied Insurance Intermediaries List -

(a) on grounds contained in subarticle (2) of that article, the name of that person shall, upon application by an authorised company, again be enrolled in the Tied Insurance Intermediaries List only on the order of the Tribunal or on acquittal from an offence under that subarticle by any court;

(b) on grounds other than those contained in subarticle (2) of that article, the name of that person may, upon application by an authorised company, again be enrolled in the Tied Insurance Intermediary List.

Application of Part VIII of the Act and European insurance undertakings.

**43.** (1) Subject to subarticle (2) of this article, for the purposes of this Part of this Act, “authorised company” shall not include European insurance undertakings.

(2) In the case of a European insurance undertaking seeking to appoint a person resident in Malta or having its registered office or head office in Malta to carry out tied insurance intermediaries activities, that undertaking shall enrol such person with the competent authority as may be determined by an insurance intermediaries rule made for the purposes of this article and the said rule shall contain the particulars, conditions and requirements for enrolment.

## PART IX

### GENERAL PROVISIONS

**44.** (1) Every person registered or enrolled under this Act, shall notify in writing the competent authority of any material changes in the documentation provided or required to be provided by or under this Act and any regulations made thereunder, or any insurance intermediaries rule, as soon as the registered or enrolled person becomes aware of such changes.

Changes in  
documentation.

(2) Without prejudice to article 54 of this Act insofar as it refers to article 38 of the Insurance Business Act, a person enrolled as a local company under this Act shall -

(a) before making any addition or alteration to the memorandum or articles of association or other instrument constituting the company, submit in writing to the competent authority particulars of the proposed addition or alteration for its prior consent; and no such addition or alteration shall be made or shall be registered, or shall take effect, whether it is registered or not, unless and until the competent authority has signified its consent in writing; and

(b) inform the competent authority of the names of the persons holding a qualifying shareholding in the company and the percentage of such holdings; and the competent authority may, by an insurance intermediaries rule made for the purposes of this article, determine the form, manner and content of the information to be forwarded to it and the date by which such information shall be forwarded shall also be established by that rule.

(3) Without prejudice to the foregoing provisions of this article, a person enrolled under Part III of this Act, shall notify the competent authority on a continuous basis, with any change or circumstance which may give rise to the existence of close links within the meaning of article 10 of this Act.

**45.** (1) The competent authority may exercise the following powers at the request of or for the purposes of assisting an overseas regulatory authority -

(a) the power to impose, revoke or vary conditions on the grant of a registration or enrolment pursuant to the provisions of subarticle (4) of article 13 of this Act;

(b) the power to suspend or strike off the name of a registered person from the Agents Register, Managers Register or Brokers Register or of an enrolled person from the Agents List, Managers List or Brokers List under article 16 of this Act;

(c) the power to strike off the name of a tied insurance intermediary off the Tied Insurance Intermediaries List enrolled under article 41 of this Act;

(d) the power to take any action under articles 29, 30, 31 or 31A of the Insurance Business Act, as applicable in accordance with article 54 of this Act;

(e) the power to communicate to the overseas regulatory authority information in its possession, whether such information is the result of any of the above powers or otherwise.

(2) The competent authority shall exercise powers by virtue of this article:

(a) where the assistance is requested by the overseas regulatory authority for the purposes of the exercise of one or more of its regulatory functions; or

(b) where so required within the terms of Malta's international commitments; or

(c) where so required within the terms of undertakings assumed in bilateral or multilateral agreements for the exchange of information and other forms of collaboration with overseas regulatory authorities including a request under a memorandum of understanding concluded with the competent authority.

(3) There shall be meetings held between an authorised company, an insurance intermediary, an approved auditor and the competent authority on a bilateral or a multilateral basis as circumstances may warrant. Such meetings may be called by any of the parties and shall in each case be chaired by the competent authority.

**46.** (1) Nothing in this Act shall authorise the competent authority to enquire or cause an enquiry to be made in relation to an enrolled person into the affairs of any individual client of the enrolled person except for the purpose of ensuring compliance with any of the provisions of this Act or any other Act.

(2) Subject to the provisions of subarticle (3) of this article, information obtained by any person for the purposes of, or pursuant to, any of the provisions of this Act, or of any regulations made thereunder, or of any insurance intermediaries rule, or in the discharge of any functions under any of the said provisions, or from an overseas regulatory authority shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, not being a person who may lawfully obtain that information for the purposes of, or pursuant to, the provisions of this Act, or of any regulations made thereunder or of any insurance intermediaries rule except with the consent of the person from whom he obtained the information, provided the information relates solely to that person.

(3) The provisions of subarticle (2) of this article, shall not preclude the disclosure of information -

(a) with a view to the institution of, or otherwise for the purposes of, criminal proceedings or of any proceedings by the competent authority before any court under this Act;

(b) with a view to enabling or assisting the competent authority in the performance or discharge of any of its functions under this Act;

(c) which has been made available to the public by virtue of being disclosed on any circumstances in which, or for any purposes for which, disclosure is not precluded by this article;

(d) in a summary or collection of information formed in such a way as not to enable the identity of any person to whom the information relates to be ascertained;

(e) to an auditor where the competent authority considers that such disclosure would assist the auditor in the exercise of his functions under article 28 of this Act;

(f) to the Central Bank of Malta or to the Listing Authority under the Financial Markets Act, where such information is required by the Bank or the Listing Authority in the exercise of their respective functions in terms of law;

(g) in response to a request from or for the purposes of assisting, an overseas regulatory authority pursuant to article 45 of this Act;

(h) to such other local or overseas regulatory, judicial or enforcement authorities where such disclosure is required or requested for the pursuance of serious regulatory concerns or the deception, prevention or prosecution of criminal offences;

(i) in civil or commercial proceedings in relation to the bankruptcy, insolvency or compulsory winding up of an insurance intermediary provided such information does not concern third parties involved in attempts to rescue an insurance intermediary, and to such overseas bodies responsible for the liquidation and bankruptcy of a person who is registered or holds an equivalent authorisation or licence from an overseas regulatory authority or for other similar procedures.

(4) No person, including past and present officers or agents of an enrolled person, shall disclose any information relating to the affairs of an enrolled person or of a client of the enrolled person concerned which he has acquired in the performance of his duties or the exercise of his functions under this Act except -

(a) when authorised to do so under any of the provisions of this Act;

(b) for the purpose of the performance of his duties or the exercise of his functions;

(c) when lawfully required to do so by any court or under a provision of any law.

(5) In this article, the expression “agents”, in relation to an enrolled person, means and includes the bankers and the auditor of the enrolled person.

(6) When an officer or an employee of an enrolled company, or a person registered or enrolled, or an officer or an employee of such person, has reason to believe that an activity or a proposed activity could involve money laundering, he shall act in accordance with regulations laid down under the Prevention of Money Laundering Act and any guidelines issued by the competent authority. Compliance with the provisions of this subarticle shall not constitute a breach of confidentiality.

**47.** (1) The Agents Register, Managers Register and Brokers Register and the Agents List, Managers List, Brokers List, and Tied Insurance Intermediaries List shall be accessible to the public, free of charge, at the offices of the competent authority at all times during the normal working hours of the competent authority.

Access to the public of the registers and the lists.

(2) Any person may, upon payment of such fee as may be prescribed, obtain from the competent authority extracts from the Agents Register, Managers Register or Brokers Register and the Agents List, Managers List or Brokers List, and the Tied Insurance Intermediaries List and official copies of certificates of registration or enrolment.

(3) The Tied Insurance Intermediaries Company Register of any local company authorised under the Insurance Business Act shall be open to public inspection, free of charge, at the principal office of the company concerned during the normal working hours of the company.

**48.** (1) Subject to the following provisions of this article, save with the written permission of the competent authority, no person other than -

Use of the word "insurance".

(a) a person registered in the Agents Register, Managers Register or Brokers Register under article 13; or

(b) a person enrolled in the Agents List, Managers List or Brokers List under that article; or

(c) a person enrolled in the Tied Insurance Intermediaries List under article 36; or

(d) a company authorised under the Insurance Business Act; or

(e) a person who holds insurance qualifications of an institute of repute recognised for such purpose by the competent authority; or

(f) an institute of repute which provides instruction in insurance business studies and is recognised as such by the competent authority; or

(g) a person prescribed by regulations under this Act,

shall use the word "insurance" as part of his or its description or title or make any such use on any letter paper, in any notice or advertisement, or in any other similar manner.

(2) Any foreign company enrolled or authorised as aforesaid may use the name used in its country of registration, incorporation or constitution save that, where there is a risk that the use of such name may be misleading, such company shall add such explanatory particulars to its name as the competent authority shall direct.

(3) The competent authority may, by an insurance intermediaries rule made for the purpose of this article, determine the qualifications or experience for carrying on insurance intermediaries activities which are required of persons, other than persons referred to in the foregoing subarticles of this article, who, on application to the competent authority, may be permitted under this article to use the word “insurance” as part of their description or title.

(4) For the purposes of this article, the expression “insurance” includes reinsurance, assurance and reassurance and any of their derivatives or other words as may indicate or purport to indicate the carrying on of business of insurance or the carrying out of insurance intermediaries activities or the carrying on of such business or the carrying out of such activities in any language in the description or title under which a person is carrying on such business or carrying out such activities.

Service of notices,  
etc.

**49.** A notice or other document to be given or served under this Act and any regulations made thereunder shall be deemed to have been duly given or served on a person if -

- (a) it has been delivered to him; or
- (b) it has been left at the address furnished by him to the competent authority, or at his last known address; or
- (c) it has been sent to him by post or by telefax at any of the aforesaid addresses; or
- (d) in the case of a commercial partnership registered in Malta, it has been delivered, sent by post or by telefax, or left at the registered office, or at the last known registered office, of that commercial partnership; or
- (e) in the case of any other body of persons, whether corporate or unincorporate, it has been given or served in any of the manners aforesaid to or on a director, an officer, a clerk or the representative of that body.



**50.** (1) (a) For the purposes of any appeal made to the Tribunal under this Act, the provisions of the proviso to subarticle (1) of article 57 of the Insurance Business Act shall apply. Appeals.

(b) For the purposes of any such appeal, the provisions of article 21 of the Malta Financial Services Authority Act shall also apply.

(2) Subject to the provisions of this article, any person who, or any company which, is aggrieved by a decision of the competent authority -

(a) to refuse to register or to enrol an applicant under article 13 or 41 of this Act;

(b) to impose any condition on, or subsequent to, registration and enrolment under article 13 or 37 of this Act;

(c) to suspend or strike the name of a person off the Agents Register, Managers Register or Brokers Register or the name of an enrolled person off the Agents List, Managers List or Brokers List under article 16 of this Act;

(d) to refuse to restore the name of a person to the Agents Register, Managers Register or Brokers Register or the name of an enrolled person to the Agents List, Managers List or Brokers List under subarticle (2) of article 18 of this Act;

(e) to refuse to register an underwriting agreement under article 32 of this Act;

(f) to strike the name of a person off the Tied Insurance Intermediaries List under paragraph (b) of subarticle (3) of article 40 of this Act;

(g) to require a company authorised under the Insurance Business Act to strike the name of a person off the Tied Insurance Intermediaries Company Register of a company under article 41 of this Act;

(h) to impose an administrative penalty in respect of infringements as may be prescribed under article 3 of this Act,

may appeal against the decision to the Tribunal which shall have exclusive competence to hear appeals on the matters listed in this subarticle.

(3) An appeal under this article shall lie only on any of the following grounds -

(a) that the competent authority has wrongly applied any of the provisions of this Act; or

(b) that the decision of the competent authority constitutes an abuse of discretion or is manifestly unfair, provided that the discretion of the competent authority may not, so long as it has been exercised properly, be queried by the Tribunal.

(4) An appeal made under this article shall not suspend the operation of any decision from which the appeal is made except in the case of an appeal from a decision as is mentioned in paragraph (h) of subarticle (2) of this article:

Provided that, a decision to strike the name of a person off the Agents Register, Managers Register or Brokers Register or Agents List, Managers List or Brokers List shall not become operative until the expiration of the period within which an appeal may be made under this article and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date in which the appeal is abandoned.

Exclusion of liability.

**51.** The competent authority and any member, officer or employee of the competent authority, and any other person appointed to perform a function under this Act and any regulations made thereunder shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions under this Act and any regulations aforesaid, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Offences.

**52.** (1) Any person -

(a) who for the purpose of obtaining the registration or enrolment under this Act or any regulations made thereunder furnishes information or makes a statement or a declaration which the person knows to be inaccurate, false or misleading in any material particular, or recklessly furnishes information or makes a statement or a declaration which is inaccurate, false or misleading in any material particular; or

(b) who contravenes or fails to comply with any of the provisions of this Act or of article 29, 30, 31A or 38 of the Insurance Business Act, as applicable in accordance with article 54 of this Act;

(c) who contravenes or fails to comply with any regulations made under this Act, other than regulations in relation to which administrative penalties have been prescribed under paragraph (h) of subarticle (2) of article 3 of this Act;

(d) who contravenes or fails to comply with any insurance intermediaries rule or registration or enrolment condition;

(e) who fails to comply with any lawful order or requirement of the competent authority;

(f) who fails to comply with any lawful order or requirement of any other person made under this Act and any regulations made thereunder;

(g) who without any reasonable excuse alters, suppresses, conceals, destroys or refuses to produce any document which is lawfully required to be produced by any person under this Act and any regulations made thereunder; or

(h) who intentionally obstructs a person exercising rights conferred by this Act or any regulations made thereunder,

shall be guilty of an offence.

(2) Any person who is knowingly a party to, or procures or aids and abets the commission of any offence under subarticle (1) of this article shall be guilty of an offence and shall be liable to the same penalties as the principal offender.

(3) The Minister shall make regulations under this article prescribing penalties for offences against this Act, and such regulations may prescribe -

(a) penalties which are enforceable by prosecution in the courts of Malta;

(b) different penalties for contraventions of different provisions of this Act;

(c) penalties calculated in accordance with the duration of the commission of the offence,

unless such penalties are otherwise imposed under article 3 of this Act.

Penalties.

**53.** (1) The penalties prescribed by regulations made under 52 of this Act -

(a) in the case of imprisonment, shall not provide for a sentence of imprisonment greater than two years;

(b) in the case of a fine imposed after a prosecution in the courts of Malta, shall not provide for a fine (*multa*) of less than one hundred Maltese liri or greater than fifty thousand Maltese liri;

(c) in the case of a continuing offence, shall not provide for a fine (*multa*) of less than fifty Maltese liri or greater than one hundred Maltese liri for each day during which the offence continues.

(2) No proceedings for an offence under this Act or any regulations made thereunder other than an infringement to which paragraph (h) of subarticle (2) of article 3 applies, shall be commenced without the consent of the Attorney General.

(3) The provisions of this Act shall not affect any criminal proceedings that may be competent under any other law.

Application of certain articles of the Insurance Business Act to insurance intermediaries.

**54.** (1) Subject to the provisions of subarticle (2) of this article:

(a) the provisions of articles 29 to 31A and of article 38 of the Insurance Business Act (hereinafter in this article referred to as the “the Act”) shall apply to an enrolled person, as if reference in such provisions -

(i) to “authorisation” were a reference to “enrolment” in the Agents List, Managers List or Brokers List”;

(ii) to “an authorised company” were a reference to “an enrolled person”;

(iii) to “business of insurance” were a reference to “insurance intermediaries activities”;

(iv) to “a company whose head office is in a country outside Malta” were a reference to “a foreign company”;

(b) articles 29 to 31A of the Act shall apply to a person enrolled in the Tied Insurance Intermediaries List as if reference in such provisions -

(i) to “authorisation” were a reference to “enrolment in the Tied Insurance Intermediaries List”;

(ii) to “an authorised company” were a reference to “a tied insurance intermediary”;

(iii) to “business of insurance” were a reference to “tied insurance intermediaries activities”.

(2) Subarticle (1) of this article shall apply to an enrolled person as if reference in the relevant provisions of the Act to “the competent authority” were a reference to “the competent authority” under this Act, and references to “insurance rules” were references to “insurance intermediaries rules”.

**55.** (1) Saving the provisions of the following subarticles of this Act, the Insurance Brokers and Other Intermediaries Act is hereby repealed.

Repeals  
and Savings.  
Cap. 404.

(2) Every licence issued or other action whatever taken or commenced under the Insurance Business Act, in so far as insurance agents and insurance managers are concerned, or under the Insurance Brokers and Other Intermediaries Act, shall continue in force and to be valid as if such licence were issued or as if such other action were taken or commenced under this Act.

(3) Any person or company licensed under the Insurance Business Act to act as an insurance agent or as an insurance manager within the meaning of that Act or licensed under the Insurance Brokers and Other Intermediaries Act to act as an insurance broker or insurance sub-agent within the meaning of that latter Act shall, not later than the appointed date, conform with the provisions of this Act or otherwise cease to act as an insurance intermediary, and shall until the appointed date or until it conforms with the provisions of this Act, whichever is earlier, continue to be governed by the provisions of the Insurance Business Act or the Insurance Brokers and Other Intermediaries Act, as the case may be. For the purpose of this subarticle “appointed date” means a day being six months after the date of the coming into force of this Act.

(4) Where a company ceases to act as an insurance agent, insurance manager or insurance broker on the grounds that such company did not, on the appointed date, conform with the provisions of this Act, that company shall be deemed to have made an application to the competent authority under article 26 of this Act on the appointed date to cease to carry on insurance intermediaries activities on that date and

to have been given permission by the competent authority under that article on the appointed date to cease to carry on such business on that date and to run-off that business as from that date. The competent authority may impose such conditions with regard to the run-off of that business as it may deem proper.

(5) Where a person concerned ceases to act as a registered insurance broker on the grounds that such person did not, on the appointed date, conform with the provisions of this Act –

(a) that person shall be deemed to have made a request to the competent authority under paragraph (e) of article 16 of this Act on the appointed date requesting the competent authority to strike his name off the said register on that date;

(b) the competent authority shall be deemed to have struck the name of that person off the Brokers Register on that date, and, also on that date, notified that person that his name has been struck off the Brokers Register; and the person, following the appointed date, shall forthwith surrender to the competent authority the certificate of registration, and any official copies thereof.

(6) Where a person ceases to act as an insurance sub-agent on the grounds that such person did not, on the appointed date, conform with the provisions of this Act -

(a) that person shall be deemed to have made an application to the authorised company, in whose Tied Insurance Intermediaries Company Register of the company his name is registered, under paragraph (b) of article 39 of this Act, on the appointed date, requesting the company to strike his name off the said register on that date;

(b) the authorised company concerned shall be deemed to have struck the name of that person off the Tied Insurance Intermediaries Register of the company on that date, and, also on that date, notified that person and the competent authority accordingly, under subarticle (6) of article 40 of this Act;

(c) the competent authority shall be deemed to have struck the name of that person off the Tied Insurance Intermediaries List on that date, and, also on that date, notified the company concerned accordingly, under paragraph (a) of subarticle (3) of article 40 of this Act; and the authorised company concerned shall forthwith, following the appointed date, surrender to the competent authority the certificate of enrolment relating to that person and any official copies thereof.

(7) Without prejudice to the provisions of article 12 of the Interpretation Act -

Cap. 249.

(a) all regulations, insurance directives, insurance intermediaries directives, orders and other instruments which were kept into force by, or made under, the Insurance Business Act, in so far as insurance agents and insurance managers are concerned, and the Insurance Brokers and Other Intermediaries Act; and

(b) any agreements and arrangements which were made in virtue of the Insurance Business Act, in so far as insurance agents and insurance managers are concerned, and the Insurance Brokers and Other Intermediaries Act, or made in virtue of any regulation, insurance directive, insurance intermediaries directive, order and other instrument,

shall, if and as in force immediately before the commencement of this article, be deemed to have been made under or in virtue of this Act and shall continue in force and may be amended, altered, repealed or otherwise dealt with accordingly.

(8) All references in any enactment and in any instrument or other document issued pursuant to the Insurance Business Act, in so far as insurance agents and insurance managers are concerned, or to the Insurance Brokers and Other Intermediaries Act, or to any provision thereof, shall, in so far as applicable, be read and construed as a reference to this Act or to the corresponding provision thereof.

(9) Any reference to an insurance intermediaries directive issued by the competent authority in virtue of subarticle (3) of article 4 of the Insurance Brokers and Other Intermediaries Act in any licence, notice, decision or other act made or taken by the competent authority before the coming into force of the provisions of this Act, and any reference in any law to an insurance intermediaries directive shall be deemed to be a reference to an insurance intermediaries rule.

(10) For the purpose of this article, "licence" includes authority or authorisation, permit, approval, registration, enrolment and appointment, and the word "licensed" shall be construed accordingly.

**PART X**

**AMENDMENT OF THE MALTA FINANCIAL SERVICES  
AUTHORITY ACT, CAP. 330**

Amends the Malta  
Financial Services  
Authority Act, Cap.  
330.

**56.** (1) This Part amends and shall be read and construed as one with the Malta Financial Services Authority Act, hereinafter in this Part referred to as “the principal Act”.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

Amendment of  
article 16 of the  
principal Act.

**57.** Immediately after sub-article (3) of article 16 of the principal Act there shall be inserted the following new subarticles:

“(4) The right of the Authority to obtain information from a person who holds or has held a licence or other authorization, or from any of the officials or employees of such person, shall not be restricted, obstructed or precluded in any manner. Any gagging or similar confidentiality obligation or other restrictive condition arising from the legal or contractual relationship between such person and his officials or employees shall be, in so far as it is contrary to these provisions and impedes or restricts the right of the Authority to receive information required in the pursuance of its regulatory functions and duties arising under this or any other Act, null and void.

(5) In furtherance of the provisions of subarticle (4), the following rules shall apply:

(a) any person who holds or has formerly held a license or other authorization from the Authority, and the officials and employees thereof shall, upon a written request by the Authority, promptly provide the Authority with any information that it may require as provided in subarticle (4), and may not raise any contractual gagging restriction or similar prohibition or other confidentiality obligation arising or alleged to arise under contract law or otherwise refuse to comply with such a request of the Authority;

(b) no action for breach of contract and no disciplinary measure may be taken, directly or indirectly, by a person against any of its officials or employees for providing the Authority with any information required by the Authority as



provided in subarticle (4); and any contractual or disciplinary measure contrary to this provision shall be null and void;

(c) for the purposes of this article:

(i) “information” shall include explanations and other forms of assistance; and

(ii) “employees” and “officials” shall include former employees and officials.”.

## PART XI

### AMENDMENTS OF THE TRUSTS AND TRUSTEES ACT, CAP. 331.

**58.** (1) This Part amends and shall be read and construed as one with the Trusts and Trustees Act, hereinafter in this Part referred to as “the principal Act”.

Amendments of the Trusts and Trustees Act, Cap. 331

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish and different dates may be so established for different provisions and different purposes thereof.

**59.** In subarticle (2) of article 12 of the principal Act, for the words “for a charitable purpose or to a unit trust” there shall be substituted the words “for a charitable purpose, to a unit trust or to a retirement scheme registered in terms of the Special Funds (Regulation) Act and set up as a trust”.

Amendment of article 12 of the principal Act.

**60.** Article 43 of the principal Act shall be amended as follows:

Amendment of article 43 of the principal Act.

(a) immediately after paragraph (b) of subarticle (6) thereof, there shall be inserted the following new paragraph (c):

“(c) A person registered in terms of the Special Funds (Regulation) Act to act as a trustee to retirement schemes shall not require further authorisation in terms of this Act provided that such trustee services are limited to retirement schemes.”;

(b) in paragraph (i) of subarticle (8) thereof, for the words “they are licensed; or” there shall be substituted the words “they are licensed;”;

(c) in paragraph (ii) of subarticle (8) thereof, for the words “approved jurisdiction:” there shall be substituted the words “approved jurisdiction; or”;

(d) immediately after paragraph (ii) of subarticle (8), there shall be inserted the following new paragraph (iii):

“(iii) a person registered under the Special Funds (Regulation) Act as a retirement scheme administrator.”; and

(e) in paragraph (a) of subarticle (9), for the words “subarticle (6)(a) and (7)(e), (g) and (h)” there shall be substituted the words “(6)(a) and (c) and (7)(e), (g) and (h)”.

## PART XII

### AMENDMENT OF THE INVESTMENT SERVICES ACT, CAP. 370

Amendment of the  
Investment Services  
Act, Cap. 370.

**61.** (1) This Part amends and shall be read and construed as one with the Investment Services Act, hereinafter in this Part referred to as “the principal Act”.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

Amendment of  
article 12 of the  
principal Act.

**62.** In paragraph (b) of subarticle (1) of article 12 of the principal Act, for the words “thereto, providing for any matter he may deem expedient including the creation and exercise of rights by or for the benefit of the public and the imposition of duties and obligations on the holders of a licence or persons responsible for the management or administration thereof;” there shall be substituted the words “thereto; providing for any matter he may deem expedient including the creation and exercise of rights by or for the benefit of the public, the imposition of duties and obligations on the holders of a licence or persons responsible for the management or administration thereof and the regulation of any fees and, or any other charges imposed directly or indirectly on investors;”.

Amendment of  
article 19 of the  
principal Act.

**63.** Paragraph (h) of subarticle (2) of article 19 thereof shall be deleted.

**64.** Article 25 of the principal Act shall be amended as follows: Amendment of article 25 of the principal Act.

(a) subarticles (2), (3), (4) and (5) thereof shall be deleted; and

(b) subarticle (6) thereof shall be re-numbered as subarticle (2).

**65.** Article 26 of the principal Act shall be substituted by the following: Amendment of article 26 of the principal Act.

“26. (1) Information obtained by the competent authority or by its officers, employees or agents for the purposes of, or pursuant to, any of the provisions of this Act, or of any rules or regulations made thereunder, or in the discharge of any functions under any of the said provisions, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases:

(a) where the disclosure is required for the detection, prevention or prosecution of criminal offences under the criminal provisions of this Act or any other Act;

(b) where the information is disclosed with a view to the institution of, or otherwise for the purposes of any proceedings by the competent authority before any court under this Act;

(c) where the information is disclosed in civil or commercial proceedings in relation to the bankruptcy or dissolution and consequential winding up by the Court of a licence holder, provided such information does not concern third parties and is necessary for the carrying out of the proceedings, or is disclosed to an overseas body responsible for the liquidation and bankruptcy of a person holding a licence or an equivalent authorisation from an overseas regulatory authority;

(d) where a summary or collection of the information is prepared or supplied in such a way as not to enable the identity of any persons to whom the information relates to be ascertained;

(e) where the information is disclosed to an auditor where such disclosure would assist him in the exercise of his functions under article 18;

Cap. 345.

(f) where the information is provided to the Central Bank of Malta or to the Listing Authority under the Financial Markets Act in the exercise of their respective functions in terms of law; and

(g) where the information is provided to such other local or overseas regulatory, judicial or enforcement authorities in the pursuance of serious concerns of a regulatory or criminal nature.

(2) Subject to the provisions of article 17, information obtained from an overseas regulatory authority may only be disclosed to another person, to another overseas regulatory authority or to any other third party with the prior approval of the authority which had provided the information.”.

### PART XIII

#### AMENDMENT OF THE FINANCIAL INSTITUTIONS ACT, CAP. 376

Amendment of the  
Financial  
Institutions Act,  
Cap. 376.

**66.** (1) This Part amends and shall be read and construed as one with the Financial Institutions Act, hereinafter in this Part referred to as “the principal Act”.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

Amendment of  
article 2 of the  
principal Act.

**67.** Article 2 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the definition “competent authority”, there shall be substituted the following new definition:

“ “the competent authority” means the body referred to in article 12(1);” and

(b) subarticle (2) thereof shall be repealed and subarticle (1) thereof shall be renumbered as the whole article 2.

Amendment of  
article 3 of the  
principal Act.

**68.** Article 3 of the principal Act shall be amended as follows:

(a) subarticles (2) and (3) thereof shall be renumbered as subarticles (3) and (4) respectively; and

(b) immediately after subarticle (1) thereof, there shall be inserted the following new subarticle (2):

“(2) Subject to the provisions of subarticle (3), a person shall not be deemed to be a financial institution by reason of the fact that the person either:

(a) belongs to a group of companies and provides any of the activities listed in the Schedule to this Act to companies which are not banks or financial institutions and which belong to the same group of companies; or

(b) draws and issues trade bills in the normal course of business under hire purchase agreements, or under sales on credit where trade bills are drawn in respect of the price due.”.

**69.** For sub-article (3) of article 9 of the principal Act, there shall be substituted the following:

Amendment of article 9 of the principal Act.

“(3) Subarticle (1) shall apply whether or not any of the relevant shares are shares listed on a recognised investment exchange in terms of the Financial Markets Act.”.

**70.** For paragraph (a) of article 21 of the principal Act there shall be substituted the following:

Amendment of article 21 of the principal Act.

“(a) under article 3(3);”.

## PART XIV

### AMENDMENT OF THE COMPANIES ACT, CAP. 386

**71.** (1) This Part amends and shall be read and construed as one with the Companies Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Companies Act, Cap. 386.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

**72.** In the second part of the “ARRANGEMENT OF ACT” appearing before the principal Act, entitled “SCHEDULES”, for the

Amendment of “Arrangement of Act”.

words from “Tenth Schedule” to the words “Table of Concordance”, there shall be substituted the following:

“Tenth Schedule	Partnerships ‘en commandite’ or limited partnerships
Eleventh Schedule	Penalties
Twelfth Schedule	Table of Concordance”.

Amendment of article 428 of the principal Act.

**73.** In sub-article 15 of article 428 of the principal Act, for the words “ – in the case of a company, any resolution, notice or return required to be delivered to the Registrar in terms of the provisions of Title II of Part V and of articles 122, 146, 183 and 184; and”, there shall be substituted the words “- in the case of a company, any resolution, notice or return required to be registered under this Act, other than any resolution , notice, return or other document required to be delivered to the Registrar in terms of the provisions of Title II of Part V and of articles 122, 146, 183 and 184 of this Act; and”.

Amendment of the Tenth Schedule to the principal Act.

**74.** Paragraph 25 of the Tenth Schedule to the principal Act shall be amended as follows:

(a) in indent (m) of sub-paragraph (8) thereof, for the words “and in the event that such assets are insufficient to discharge the liabilities so incurred, the creditors in respect thereof shall have no claim or right of action against the other assets of the partnership, and the provisions of any law or regulation in force regulating the insolvency of partnerships shall not apply.”, there shall be substituted the words “and the creditors in respect thereof shall have no claim or right of action against the other assets of the partnership, and the following rules shall apply:

(i) proceedings in relation to the partnership shall respect the legal status of each sub-class as a patrimony separate from the assets and liabilities of each other sub-class of the partnership in terms of this Schedule; and

(ii) proceedings under the Act shall apply *mutatis mutandis* to the sub-class as though it were a distinct legal entity and with such modifications as are necessary to accommodate the fact that the sub-class is not a partnership; and any proceedings in relation to one sub-class shall not have any effect on the assets of any other sub-class of the partnership or the partnership itself.

“Proceedings” in indent (m) of this sub-paragraph refers to any proceedings in terms of paragraphs 20 to 24 of this Schedule and Part VI of the Act.”; and

(b) sub-paragraphs (n), (o) and (p) of sub-paragraph (8) thereof shall be renumbered as sub-paragraphs (o), (p) and (q) respectively, and immediately after sub-paragraph (m) thereof, there shall be inserted the following new sub-paragraph (n):

“(n) When a partnership *en commandite* or a limited partnership is established as an umbrella or multi-class partnership and elects to have the assets and liabilities of its sub-classes treated as distinct patrimonies, the memorandum shall provide that the actual value of the paid up share capital of any sub-class shall be at all times equal to the value of the assets of any kind of the particular sub-class after the deduction of such sub-classes’ liabilities and this in lieu of what is stated in paragraph (i) of sub-paragraph (c) of sub-article (2) of article 84 of the Act.”.

## PART XV

### AMENDMENT OF THE INSURANCE BUSINESS ACT, CAP. 403

**75.** (1) This Part amends the Insurance Business Act and shall be read and construed as one with the Insurance Business Act, hereinafter in this Part referred to as “the principal Act”. Amendment of the Insurance Business Act, Cap. 403.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance, may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Part.

**76.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) in the marginal note thereof, for the word “Interpretation” there shall be substituted the words “Interpretation and scope”.

(b) in subarticle (1) thereof:

(i) immediately after the definition “business of insurance” there shall be added the following new definition:

Cap. 386.

“ “cell” has the same meaning as is assigned to it by the Companies Act;”;

(ii) immediately after the definition “cell”, there shall be added the following new definition:

“ “cell company” has the same meaning as is assigned to it by the Companies Act;”;

(iii) for the definition of “company whose head office is in a country outside Malta” there shall be substituted the following:

“ “company whose head office is in a country outside Malta” means a company, other than a European insurance undertaking, registered, incorporated or constituted outside Malta under the laws of any country provided that such company has complied with the provisions of any law which may from time to time be in force in Malta relating thereto;”;

(iv) in the definition “competent authority”, for the words “established under article 3(2)”, there shall be substituted the words “established under article 3”;

(v) immediately after the definition “director” there shall be added the following new definition:

“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 17<sup>th</sup> March, 1993 and as amended from time to time;

(vi) immediately after the definition “establishment” there shall be added the following new definition:

“ “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 1 of First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, Regulations and administrative



provisions relating to the taking-up and pursuit of direct insurance other than life assurance or article 2 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, which has received authorisation under article 6 and article 4 of the said Directives respectively;”;

(vii) for the definition “insurance agent”, there shall be substituted the following:

“ “insurance agent” has the same meaning as is assigned to it by the Insurance Intermediaries Act, 2006;”;

(viii) the definition of “insurance directive” shall be deleted;

(ix) for the definition “insurance manager”, there shall be substituted the following:

“ “insurance manager” has the same meaning as is assigned to it by the Insurance Intermediaries Act, 2006;”;

(x) immediately after the definition of “insurance manager” there shall be added the following new definition:

“ “insurance rule” means a rule in respect of the business of insurance which shall be binding on authorised companies and others as may be specified therein, issued by the competent authority in virtue of article 4(3) of this Act;”;

(xi) for the definition of “Malta’s international commitments” there shall be substituted the following:

“ “Malta’s international commitments” means Malta’s commitments, responsibilities and obligations arising out of its membership of, or accession to the European Union, or membership of, or affiliation to, or relationship with, any international, global or regional organisations or grouping of countries or out of any treaty, convention or other international agreement, however called, whether bilateral or multilateral, to which Malta is a party;”;

(xii) immediately after the definition “margin of solvency” there shall be added the following new definition:

“ “Member State” means a Member State of the European Communities;

(xiii) in the definition “own funds”, for the words “in accordance with an insurance directive”, there shall be substituted the words “in accordance with an insurance rule”;

(xiv) in the definition “prescribed”, for the words “prescribed by rules or regulations”, there shall be substituted the words “prescribed by regulations”;

(xv) the definition of “recognised insurance body” shall be deleted;

(xvi) immediately after the definition of “reconstruction” there shall be added the following new definition:

“reinsurance” means the activity consisting in accepting risks ceded by an insurance undertaking or by another reinsurance undertaking;

(xvii) in the definition “risk situated in Malta”, in paragraph (b) thereof, there shall be added the following proviso:

“Provided that, where a vehicle is dispatched from a Member State or an EEA State into Malta, the risk is deemed to be situated in Malta, immediately upon acceptance of delivery by the purchaser for a period of thirty days, even though the vehicle has not been formally registered in Malta;”; and

(xviii) in the definition “technical provisions”, for the words “in accordance with article 17(1) to (6)”, there shall be substituted “in accordance with article 17(1) to (5)”;

(c) subarticle (2) thereof shall be substituted by the following:

“Scope. (2) The objective of this Act is, in part, to implement the provisions of:

(a) First Council Directive of 24 July 1973 on the coordination of laws, Regulations and administrative provisions relating to the taking-up and pursuit of direct insurance other than life assurance (73/239/EEC);

(b) Second Council Directive of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC (88/357/EEC);

(c) Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive);

(d) Directive 2002/12/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 79/267/EEC as regards the solvency margin requirements for life assurance undertakings;

(e) Directive 2002/13/EC of the European Parliament and of the Council of 5 March 2002 amending Council Directive 73/239/EEC as regards the solvency margin requirements for non-life insurance undertakings;

(f) Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance;

(g) Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles;

(h) Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC; and

(i) any other Directive of the European Parliament and of the Council that may be issued from time to time relating to the regulation of and the prudential requirements applicable to insurance companies,

which shall be interpreted and applied accordingly.”; and

(d) in subarticle (3) thereof, for the words “in any rules or regulations made thereunder,”, there shall be substituted the words “in any regulations made thereunder,”.

Substitution of article 3 of the principal Act.

**77.** For article 3 of the principal Act, there shall be substituted the following:

“Competent authority.

3. The Minister shall by Order in the Gazette appoint a body to be the competent authority for the purposes of this Act to carry out the functions of the competent authority under this Act and, in particular, to ensure compliance with the provisions of this Act.”.

Amendment of article 4 of the principal Act.

**78.** Article 4 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof:

(i) for the words “any rules or regulations made thereunder” wherever they appear, there shall be substituted the words “any regulations made thereunder”; and

(ii) for the words “with any insurance directive made by the competent authority”, there shall be substituted the words “with any insurance rule made by the competent authority”;

(b) in subarticle (3) thereof:

(i) for the words “insurance directives” wherever they appear, there shall be substituted the words “insurance rules”; and

(ii) for the words “any rules or regulations made thereunder.”, there shall be substituted the words “any regulations made thereunder.”;

(c) in subarticle (4) thereof, for the words “Insurance directives”, there shall be substituted the words “Insurance rules”; and

(d) in subarticle (5) thereof, for the words “Insurance directives”, there shall be substituted the words “Insurance rules”.

**79.** Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

(a) in subarticle (6) thereof, for the words “make rules or regulations”, there shall be substituted the words “make regulations”;

(b) in subarticle (7) thereof, for the words “by an insurance directive”, there shall be substituted the words “by an insurance rule”; and

(c) in subarticle (8) thereof, for the words “by an insurance directive” or “the directive”, there shall be substituted the words “by an insurance rule” or “the rule” respectively.

**80.** Article 6 of the principal Act shall be amended as follows: Amendment of article 6 of the principal Act.

(a) for subarticle (3) thereof, there shall be substituted the following:

“(3) Subarticles (1) and (2) shall not apply to:

(a) a mutual association if such mutual association satisfies such requirements as may be set out in an insurance rule made for the purpose; or

(b) a European insurance undertaking having its head office in a Member State or an EEA State establishing a branch or providing services in Malta in exercise of a European right.”; and

(b) subarticle (4) thereof, shall be deleted; and

(c) subarticles (5) and (6) thereof, shall be renumbered as subarticles (4) and (5) respectively.

**81.** Article 8 of the principal Act shall be amended as follows: Amendment of article 8 of the principal Act.

(a) in subarticle (1) thereof:

(i) for paragraph (b) thereof, there shall be substituted the following:

(b) (i) in so far as a company whose business is not restricted to reinsurance business, the company's objects are limited to business of insurance and operations arising directly therefrom, to the exclusion of all other commercial business;

(ii) in so far as a company carrying on business restricted to reinsurance, the company's objects are limited to the business of reinsurance and related operations, as may be specified by an insurance rule made for the purposes of this article;

(ii) in paragraph (e) thereof, for the words "as may be determined by an insurance directive", there shall be substituted the words "as may be determined by an insurance rule"; and

(iii) in paragraph (f) thereof, for the words "as may be determined by an insurance directive", there shall be substituted the words "as may be determined by an insurance rule"; and

(b) in subarticle (3) thereof, for the words "an insurance directive issued under this Act", there shall be substituted the words "an insurance rule issued under this Act".

Amendment of article 9 of the principal Act.

**82.** Article 9 of the principal Act shall be amended as follows:

(a) for subarticle (2) thereof, there shall be substituted the following:

"(2) Without prejudice to the provisions of subarticle (3), the provisions of this article shall not apply to a company which holds an authorisation to carry on both long term business and general business under this Act as is force immediately before the coming into force of subarticle (1) until such time as the Minister may by Order in the Gazette establish."; and

(b) in subarticle (3) thereof, for the words "as may be determined by an insurance directive", there shall be substituted the words "as may be determined by an insurance rule".

Amendment of article 10 of the principal Act.

**83.** In paragraph (b) of subarticle (1) of article 10 of the principal Act, the words "where the authorisation sought or held is one not restricted to reinsurance," shall be deleted.

**84.** In indent (ii) of paragraph (b) of subarticle (2) of article 11 of the principal Act, for the words “determined by an insurance directive”, there shall be substituted the words “determined by an insurance rule”.

Amendment of article 11 of the principal Act.

**85.** Article 13 of the principal Act shall be deleted.

Deletion of article 13 of the principal Act.

**86.** Article 14 of the principal Act shall be amended as follows:

Amendment of article 14 of the principal Act.

(a) in subarticle (2) thereof, the words “Subject to subarticle (3)” shall be deleted;

(b) subarticle (3) thereof, shall be deleted;

(c) subarticles (4), (5), (6) and (7) thereof, shall be renumbered as subarticles (3), (4), (5) and (6) respectively;

(d) in subarticle (5) thereof as renumbered, for the words “the reference in subarticle (5)(a)”, there shall be substituted the words “the reference in subarticle (4)(a)”; and

(e) in subarticle (6) thereof as renumbered:

(i) for the words “In applying subarticle (5)”, there shall be substituted the words “In applying subarticle (4)”; and

(ii) for the words “maintained under article 17(7)”, there shall be substituted the words “maintained under article 17(6)”.

**87.** Article 15 of the principal Act shall be amended as follows:

Amendment of the marginal note to article 15 of the principal Act.

(a) for the marginal note to article 15 thereof, there shall be substituted the words “Failure to maintain the minimum margin of solvency.”; and

(b) in subarticle (3) thereof, for the words “by virtue of article 14(6)” there shall be substituted the words “by virtue of article 14(5)”.

**88.** Article 16 of the principal Act shall be amended as follows:

Amendment of article 16 of the principal Act.

(a) in subarticle (1) thereof, the words “Subject to subarticle (5)” shall be deleted; and

(b) subarticle (5) thereof shall be deleted.

Amendment of article 17 of the principal Act.

**89.** Article 17 of the principal Act shall be amended as follows:

(a) subarticle (6) thereof shall be deleted;

(b) subarticles (7), (8) and (9) thereof, shall be renumbered as subarticles (6), (7) and (8) respectively;

(c) in subarticle (6) thereof as renumbered, for the words “Without prejudice to subarticle (1) and subject to subarticle (8)”, there shall be substituted the words “Without prejudice to the foregoing subarticles and subject to subarticle (7)”; and

(d) in subarticle (7) thereof as renumbered, for the words “Subarticle (7) shall not apply to such company”, there shall be substituted the words “Subarticle (6) shall not apply to such company”.

Amendment of article 20 of the principal Act.

**90.** Subarticle (4) of article 20 of the principal Act shall be deleted.

Amendment of article 21 of the principal Act.

**91.** Subarticle (3) of article 21 of the principal Act shall be amended as follows:

(a) for the words “and of any rules or regulations”, there shall be substituted the words “and of any regulations”; and

(b) for the words “and of any insurance directive”, there shall be substituted the words “and of any insurance rule”.

Amendment of article 23 of the principal Act.

**92.** Article 23 of the principal Act shall be amended as follows:

(a) in subarticle (4) thereof, for the words “as may be determined by an insurance directive”, there shall be substituted the words “as may be determined by an insurance rule”; and

(b) in subarticle (6) thereof, for the words “by the insurance directive determine.”, there shall be substituted the words “by the insurance rule determine.”.

Amendment of article 26 of the principal Act.

**93.** Article 26 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof:



(i) for the words “and any rules or regulations made thereunder”, there shall be substituted the words “and any regulations made thereunder”; and

(ii) for the words “or any insurance directive;”, there shall be substituted the words “or any insurance rule;”; and

(b) in paragraph (d) thereof:

(i) for the words “and any rules or regulations made thereunder;”, there shall be substituted the words “and any regulations made thereunder;”; and

(ii) for the words “or any insurance directive;”, there shall be substituted the words “or any insurance rule;”.

**94.** Subarticle (1) of article 28 of the principal Act shall be amended as follows:

Amendment of  
article 28 of the  
principal Act.

(a) for the words “In any of the cases in which the competent authority may suspend or revoke an authorisation under article 26, the competent authority may, either in lieu of or in addition to any such suspension or revocation, and without prejudice to its powers to suspend or revoke an authorisation, proceed in any one or more of the following manners:” there shall be substituted the words “Without prejudice to the powers conferred to the competent authority under article 26 of the Act, the competent authority, may, where it is satisfied that sufficient serious circumstances exist, proceed to take any one or more of the following measures:”;

(b) paragraph (e) shall be substituted by the following:

“(e) issue an order for the dissolution and winding up of the company or, in the case of a company whose head office is in a country outside Malta, for the winding up of its business in Malta;”; and

(c) for paragraph (h) there shall be substituted the following:

“(h) require the company to submit a financial recovery plan as may be determined by an insurance rule made for the purposes of this article if it considers that the interest of insureds, policyholders, creditors or other interested persons

are likely to be prejudiced owing to a deterioration in the financial position of the company; ”.

Amendment of article 30 of the principal Act.

**95.** For subarticle (7) of article 30 of the principal Act, there shall be substituted the following:

“ (7) In this article, any reference to officers or to agents shall include a reference to past as well as present officers or agents and the expression “agents”, in relation to an authorised company, shall include an insurance agent, insurance manager or tied insurance intermediary, registered or enrolled under the Insurance Intermediaries Act, 2006 acting for the company, the bankers, the auditors and, in the case of a company authorised to carry on long term business, the actuary of the company, a person acting as an intermediary for the company and a person as may be prescribed by regulations made for the purposes of article 18.”.

Addition of new article 31A in the principal Act.

**96.** Immediately after article 31 of the principal Act, there shall be inserted the following new article 31A:

“Power to issue directives.

31A. (1) Without prejudice to any of the powers conferred to it under this Act, the competent authority may, whenever it deems it necessary, give, by notice in writing, such directives as it may deem appropriate in the circumstances, and any person to whom or to which the notice is given shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive.

(2) The power to give directives under this article shall include the power to vary, alter, add to or withdraw any directive, as well as the power to issue new or further directives.

(3) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given under any of the provisions of this article.”.

Amendment of article 32 of the principal Act.

**97.** Article 32 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “an insurance directive” or “that directive.”, there shall be substituted the words “an insurance rule” or “that rule.”, respectively;

(b) in subarticle (2) thereof, for the words “the insurance directive.”, there shall be substituted the words “the insurance rule.”; and

(c) in subarticle (3) thereof, for the words “specified in the directive.”, there shall be substituted the words “specified in the rule.”.

**98.** Article 37 of the principal Act shall be deleted.

Deletion of article 37 of the principal Act.

**99.** Article 38 of the principal Act shall be amended as follows:

Amendment of article 38 of the principal Act.

(a) in subarticle (2) thereof, for the words “insurance undertaking,” there shall be substituted the words “insurance undertaking, reinsurance undertaking,” ; and

(b) in subarticle (7) thereof, for the words “an insurance directive determining the form in which such notification shall take place”, there shall be substituted the words “an insurance rule determining the form in which such notification shall take place”.

**100.** Article 39 of the principal Act shall be amended as follows:

Amendment of article 39 of the principal Act.

(a) in subarticle (2) thereof:

(i) in indent (i) of paragraph (a) therein, for the words “as may be determined by an insurance directive”, there shall be substituted the words “as may be determined by an insurance rule”; and

(ii) in indent (ii) of paragraph (b) therein, for the words “by any applicable insurance directive.”, there shall be substituted the words “by any applicable insurance rule.”;

(b) subarticle (3) thereof shall be deleted; and

(c) subarticle (4) thereof shall be renumbered as subarticle (3).

**101.** Article 43 of the principal Act shall be amended as follows:

Amendment of article 43 of the principal Act.

(a) in subarticle (1) thereof:

(i) for the words “and any rules or regulations made thereunder,”, there shall be substituted the words “and any regulations made thereunder,”; and

(ii) for the words “or any insurance directive,” there shall be substituted the words “or any insurance rule,”; and

(b) in paragraph (b) of article (2) thereof, for the words “an insurance directive” or “that directive.”, there shall be substituted the words “an insurance rule” or “that rule.”, respectively.

Amendment of article 44 of the principal Act.

**102.** In subarticle (1) of article 44 of the principal Act, the words “other than a contract falling within class III of the Second Schedule,” shall be deleted.

Substitution of article 46 of the principal Act.

**103.** Article 46 of the principal Act shall be substituted by the following:

“Contracts of insurance not voidable by insurer notwithstanding a breach of this Act or of the Insurance Intermediaries Act, 2006.

46. No contract of insurance shall be held void or voidable by an insurer by reason only that, at the time the contract is entered into, there is a breach of any provision of this Act or of the Insurance Intermediaries Act, (in this article referred to as “the Act”) and of any regulations made under this Act or under the Act or of any insurance rule issued in virtue of this Act or any insurance intermediaries rule issued in virtue of the Act.”.

Amendment of article 47 of the principal Act.

**104.** Article 47 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “by an insurance directive” there shall be substituted the words “by an insurance rule”; and

(b) in subarticle (2) thereof, for the words “insurance directive,”, there shall be substituted the words “insurance rule.”.

Amendment of article 48 of the principal Act.

**105.** In subarticle (2) of article 48 of the principal Act, for the words “by an insurance directive” there shall be substituted the words “by an insurance rule”.

Addition of new article 48A to the principal Act.

**106.** Immediately after article 48 of the principal Act there shall be added the following new article 48A:

“Provisions relating to Lloyd’s.

48A. (1) For the purposes of the article:

(a) “Lloyd’s” means the society and corporation incorporated by Lloyd’s Act, 1871, of the United Kingdom, and regulated by or under Lloyd’s Acts, 1871

to 1982, of the United Kingdom or any other law from time to time amending or re-enacting the same;

(b) “syndicate” means a member or group of members of Lloyd’s underwriting business of insurance at Lloyd’s through the agency of a managing agent to which a particular syndicate number is assigned by or under the authority of the Council of Lloyd’s.

(2) Lloyd’s shall at all times have a representative in Malta who shall be resident in Malta and who shall be the representative in Malta of Lloyd’s and of each of its members. The representative shall be designated by a letter addressed to the competent authority by the chairman of Lloyd’s.

(3) The representative shall for the purposes of this Act be authorised to act generally as judicial representative of, and accept service of any document on behalf of, Lloyd’s and of each of its members and to file any judicial acts in the registry of any court or similar authority in Malta on behalf of Lloyd’s or any of its members. The general representative shall not be personally liable for the debts and obligations of Lloyd’s or any of its members.

(4) It shall be sufficient in any judicial act (other than an application for the issue of any precautionary or executive warrant) filed by or against members of Lloyd’s in connection with a policy underwritten by them to file the act in the name of the Lloyd’s representative in Malta as representative of those members; provided the act contains a statement that it is being filed in connection with a policy of insurance underwritten by members of Lloyd’s and giving particulars of the number reference and date of the policy in respect of which the act is filed, the identifying number of each of the syndicates subscribing thereto and, where known, the names of the members of Lloyd’s comprising those syndicates. This subarticle shall apply notwithstanding any provision to the contrary contained in the Code of Organisation and Civil Procedure.

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(5) The Lloyd’s representative shall within forty-five days after the filing by him of the judicial act, or of its service on him, as the case may be, file a note in the records of the judicial act filed as aforesaid containing a list of the names of the members comprising the syndicates subscribing to the policy and any such note shall be deemed to be an

integral part of the judgment or decree emanating from the court subsequent to the judicial act and such judgment or decree shall be binding on the members whose names are listed in the note in the same manner as it would so have bound them if they has been named as parties to the said judicial act:

Provided that, the Lloyd's representatives shall not be bound to file any such note following the filing of any judicial act where particulars of the names of the members of Lloyd's comprising those syndicates are already contained in the act or where any such note has already been filed in the records of the case.”.

Addition of new article 48B to the principal Act.

**107.** Immediately after the new article 48A of the principal Act, there shall be added the following new article 48B:

“Appointment of insurance intermediaries. **48B.** Every authorised company shall utilise the services of insurance intermediaries which are:

(a) enrolled under the Insurance Intermediaries Act, 2006; or

(b) registered with a supervisory authority of a European insurance undertaking in a Member State or an EEA State.

Amendment of article 49 of the principal Act.

**108.** In paragraph (a) of article 49 of the principal Act, for the words “in respect of risks situated in Malta and of commitments where Malta is the country of the commitment” there shall be substituted the words “in respect of risks and of commitments”.

Amendment of article 50 of the principal Act.

**109.** In subarticle (1) of article 50 of the principal Act, for the words “and any rules and regulations made thereunder,” there shall be substituted the words “and any regulations made thereunder,”.

Substitution of article 54 of the principal Act.

**110.** Article 54 of the principal Act shall be substituted by the following:

“Power to issue regulations under this Part of the Act. **54.** The Minister may, after consultation with the competent authority, make regulations to better implement the provisions of this Part, including the transposition of any requirement or provision as may arise under a Directive, Regulation or Decision of the European Union or any other similar measure.”.

111. Subarticles (2) and (3) of article 59 of the principal Act shall be amended as follows:

Amendment of  
article 59 of the  
principal Act.

(a) for subarticle (2) thereof, there shall be substituted the following:

“(2) Information obtained by the competent authority or by its officers, employees or agents for the purposes of, or pursuant to, any of the provisions of this Act, or of any regulations made thereunder, or of any insurance rule, or in the discharge of any functions under any of the said provisions, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases –

(a) where the information is disclosed with a view to the institution of, or otherwise for the purposes of, criminal proceedings or of any proceedings by the competent authority before any court under this Act;

(b) where the information is disclosed with a view to enabling or assisting the competent authority in the performance or discharge of any of its functions under this Act;

(c) where the information has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purpose for which, disclosure is not precluded by this article;

(d) where a summary or collection of information is prepared or supplied in such a way as not to enable the identity of any person to whom the information relates to be ascertained;

(e) where the information is disclosed to an auditor where such disclosure would assist the auditor in the exercise of his functions under articles 21 and 24;

(f) where the information is disclosed to an actuary where such disclosure would assist the actuary in the exercise of his functions under article 23;

(g) where the information is provided to the Central Bank of Malta or to the Listing Authority under the

Financial Markets Act in the exercise of their respective functions in terms of law;

(h) where the information is provided to such other local or overseas regulatory, judicial or enforcement authorities where such disclosure is required or requested for the pursuance of serious regulatory concerns or the detection, prevention or prosecution of criminal offences;

(i) where the information is disclosed in civil or commercial proceedings in relation to the bankruptcy or compulsory winding up of an authorised company provided such information does not concern third parties involved in attempts to rescue such company, and to such overseas bodies responsible for the liquidation and bankruptcy of a person holding an authorisation or an equivalent licence from an overseas regulatory authority.” ;

(b) for subarticle (3) thereof, there shall be substituted the following:

“ (3) Subject to the provisions of article 55, information obtained from an overseas regulatory authority may only be disclosed to another person, to another overseas regulatory authority or to any other third party with the prior approval of the authority which had provided the information.” .

Amendment of article 61 of the principal Act.

**112.** Article 61 of the principal Act shall be amended as follows:

(a) for the words “or any rules or regulations made thereunder”, there shall be substituted the words “or any regulations made thereunder”; and

(b) in paragraph (e) thereof, for the words “or paragraph 4.1 of the First Schedule, as the case may be;”, there shall be substituted the words “or subarticle (2) of article 48A of the Act, as the case may be;”.

Amendment of article 62 of the principal Act.

**113.** Paragraph (a) of subarticle (3) of article 62 of the principal Act shall be substituted by the following:

“(3) (a) The provisions of the foregoing subarticles shall also apply, *mutatis mutandis* to companies enrolled to act as insurance managers and companies enrolled to carry on the business of insurance broking under the Insurance Intermediaries Act, 2006,



and accordingly references in this article to “authorised” and to “business of insurance” shall be deemed to include references to “enrolled” and “activities of companies enrolled as insurance managers and business of insurance broking”, respectively.”.

**114.** Article 64 of the principal Act shall be amended as follows: Amendment of article 64 of the principal Act.

(a) in subarticle (1) thereof,

(i) for the words “rules and regulations” , wherever they appear, there shall be substituted the word “regulations”; and

(ii) in the Maltese text, in paragraph (c) therein, for the words “mahluqa minn kumpannija ċellula” there shall be substituted the words “mahluqa minn kumpannija ċellulari”;

(b) in subarticle (2) thereof, for the words “and not exceeding five thousand liri” there shall be substituted the words “and not exceeding forty thousand liri” ;

(c) subarticles (4), (5), (6) and (7) thereof, shall be renumbered as subarticles (6), (9), (10) and (11) respectively;

(d) immediately after subarticle (3) thereof, there shall be added the following new subarticles (4) and (5):

“(4) The Minister may, after consultation with the competent authority, make regulations providing for the determination and regulation of any matter which relates to finite reinsurance activities, including mandatory conditions for inclusion in all finite reinsurance contracts, and prescribing the accounting, prudential and statistical information requirements providing for the establishment of technical provisions, the margin of solvency and the minimum guarantee fund requirements that a reinsurance undertaking shall maintain in respect of finite reinsurance activities.

(5) The Minister may, after consultation with the competent authority, make regulations providing for the establishment of special purpose vehicles within the meaning of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC, as well as Directives 98/78/EC and 2002/83/EC, including the conditions under which the activities of such vehicles shall be carried on.” ;

(e) in subarticle (6) thereof as renumbered, for the words “or of any rules and regulations” there shall be substituted the words “or of any regulations”;

(f) immediately after subarticle (6) thereof as renumbered, there shall be added the following new subarticles:

“ (7) The Minister may, after consultation with the competent authority, make regulations to better implement the provisions of this Act, including the transposition of any requirement or provision as may arise under a Directive, Regulation or Decision of the European Union or any other similar measure relevant for the purposes of this Act.

(8) Regulations may be made under this article with regards to any matter related to a transfer of business of insurance; and the regulations may make such exemptions, conditions, modifications as may be specified therein in respect of different circumstances or purposes.”;

(g) in subarticle (9) thereof as renumbered, for the words “rules or regulations”, wherever they appear, there shall be substituted the word “regulations”; and

(h) in subarticle (11) thereof as renumbered, for the words “rules or regulations”, whenever they appear, there shall be substituted the word “regulations”.

Amendment of article 66 of the principal Act.

**115.** In article 66 of the principal Act, for the words “or any rules and regulations” there shall be substituted the words “or any regulations”.

Amendment of article 67 of the principal Act.

**116.** Article 67 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof,

(i) in paragraph (a) thereof, for the words “or any rules or regulations made thereunder,”, there shall be substituted the words “or any regulations made thereunder,”;

(ii) in paragraph (b) thereof, for the words “or any rules or regulations made thereunder or any insurance directive; or”, there shall be substituted the words “or any regulations made thereunder or any insurance rule; or”;

(iii) in paragraph (c) thereof, for the words “or any rules or regulations made thereunder; or”, there shall be substituted the words “or any regulations made thereunder; or”;

(iv) in paragraph (d) thereof, for the words “or any rules or regulations made thereunder or any insurance directive; or”, there shall be substituted the words “or any regulations made thereunder or any insurance rule; or”;

(v) in indent (i) of paragraph (e) thereof:

(aa) for the words “or of any rules or regulations made thereunder,” there shall be substituted the words “or of any regulations made thereunder,”; and

(bb) for the words “or any insurance directive; or”, there shall be substituted the words “or any insurance rule; or”;

(b) in the proviso to subarticle (6) thereof, for the words “may not be greater than a financial penalty of five thousand liri” there shall be substituted the words “may not be greater than a financial penalty of forty thousand liri”.

**117.** Article 68 of the principal Act shall be amended as follows: Amendment of article 68 of the principal Act.

(a) in subarticle (1) thereof, for the words “and any rules or regulations made thereunder”, there shall be substituted the words “and any regulations made thereunder”; and

(b) in subarticle (2) thereof, for the words “and any rules or regulations made thereunder”, there shall be substituted the words “and any regulations made thereunder”;

**118.** Article 69 of the principal Act shall be amended as follows: Amendment of article 69 to the principal Act.

(a) subarticles (8) and (9) thereof shall be renumbered as (9) and (10) respectively; and

(b) immediately after subarticle (7) thereof, there shall be added the following new subarticle:

“(8) Any reference to an insurance directive issued by the competent authority in virtue of subarticle (3) of article 4 of this Act in any licence, notice, decision or other act made

or taken by the competent authority and any reference in any law or regulation to an insurance directive shall be deemed to be a reference to an insurance rule.”.

Deletion of the First Schedule to the principal Act.

**119.** The First Schedule to the principal Act shall be deleted.

Amendment of the Second Schedule to the principal Act.

**120.** The Second Schedule to the principal Act shall be amended as follows:

(a) in paragraph 1 thereof, for the words “insurance directive”, there shall be substituted the words “insurance rule”;

(b) in paragraph 2 thereof:

(i) in class II, “Marriage and birth”, under the heading “Description”:

(aa) for the words “as may be specified by the insurance directive,”, there shall be substituted the words “as may be specified by the insurance rule.”; and

(bb) the words “but excluding (in each case) contracts within class III of this Schedule.” shall be deleted;

(ii) in class III, “Linked long term”, under the heading “Description” the words “or contracts to provide a sum on marriage or on the birth of a child” shall be deleted;

(iii) in sub-paragraph (a) of class IV, “Permanent health”, under the heading “Description” for the words “as may be specified by the insurance directive,”, there shall be substituted the words “as may be specified by the insurance rule.”;

(iv) in class VIII, “Collective insurance”, under the heading “Description” for the words “as may be specified by the insurance directive”, there shall be substituted the words “as may be specified by the insurance rule.”; and

(v) in class IX, “Social insurance”, under the heading “Description” for the words “as may be specified by the insurance directive”, there shall be substituted the words “as may be specified by the insurance rule”.

- 121.** The Fourth Schedule to the principal Act shall be deleted. Deletion of the Fourth Schedule to the principal Act.

## PART XVI

### AMENDMENT OF THE SPECIAL FUNDS (REGULATION) ACT, CAP. 450

- 122.** (1) This Part amends and shall be read and construed as one with the Special Funds (Regulation) Act, hereinafter referred to as “the principal Act”. Amendment of the Special Funds (Regulation) Act, Cap. 450.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette establish, and different dates may be established for different provisions and different purposes of this Part.” .

- 123.** Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) in the definition “asset manager”, for the words “discretionary or non-discretionary investment services to” there shall be substituted the words “the investment service of managing investments of”;

(b) in the definition “scheme”, for the words “means a scheme or arrangement established by contract which governs the rights and responsibilities of the retirement scheme administrator and contributor thereto, and” there shall be substituted the words “means a scheme or arrangement which is registered under this Act”; and

(c) in the definition “scheme document”, for the word “contract” there shall be substituted the word “instrument”.

- 124.** Subarticle (1) of article 4 of the principal Act shall be amended as follows: Amendment of article 4 of the principal Act.

(a) in paragraph (b) thereof, for the word “shall” there shall be substituted the word “may”; and

(b) in paragraph (i) thereof, for the words “auditor, or actuary of the scheme;” there shall be substituted the words “auditor, actuary or any other party to the scheme;”.

- 125.** Article 17 of the principal Act shall be amended as follows: Amendment of article 17 of the principal Act.

(a) for subarticle (1) thereof, there shall be substituted the following:

“(1) No person shall provide a retirement fund or a scheme with any administrative services described in articles 18 and 19, trustee services or any other services as the Authority may specify, unless such person is registered under this Act as a retirement fund administrator or a scheme administrator as the case may be, or is otherwise registered by the Authority to perform any such services.”; and

(b) immediately after subarticle (6) there shall be inserted the following new subarticle (7):

“(7) The provisions of this Act applicable to retirement scheme administrators and retirement fund administrators, as the case may be, shall apply mutatis mutandis to persons who provide trustee services or any other services in accordance with subarticle (1) of this article unless the Authority otherwise provides. The Authority may issue any directives to regulate the activities of trustees providing trustee services under this Act and it may impose such conditions as it deems appropriate in relation to the services provided by a trustee or trustees in the context of a Scheme.”.

Amendment of article 19 of the principal Act.

**126.** Subarticle (1) of article 19 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, for the words “all contributions in the retirement fund in accordance with” there shall be substituted the words “all contributions in accordance with”;

(b) in paragraph (c) thereof, for the words “of the scheme document;”, there shall be substituted the words “of the scheme document and that all disbursements are effected in accordance with the scheme document;”;

(c) for paragraph (d) thereof, there shall be substituted the following:

“(d) maintaining custody of assets;”;

(d) in paragraph (h) thereof:

(i) for the words “the shares of a retirement fund or funds” , there shall be substituted the words “any security in

which the scheme may be invested, including the shares of any retirement fund or funds, as may be applicable,”; and

(ii) for the words “such redemption” there shall be substituted the words “such redemption or liquidation”.

**127.** Subarticle (1) of article 24 of the principal Act shall be amended as follows: Amendment of article 24 of the principal Act.

(a) for the words “providing discretionary or non-discretionary investment management services constituting investment services to” there shall be substituted the words “managing investments of”; and

(b) for the words “asset manager in accordance with this Act” there shall be substituted the words “asset manager or, a retirement scheme administrator duly authorized to provide investment management services, in accordance with this Act”.

**128.** In article 37 of the principal Act, for the words “may only invest in” there shall be substituted the words “may invest in”. Amendment of article 37 of the principal Act.

**129.** Article 38 of the principal Act shall be amended as follows: Amendment of article 38 of the principal Act.

(a) in subarticle (1) thereof, for the words “A retirement fund shall comply” there shall be substituted the words “A retirement fund or scheme shall comply”;

(b) in subarticle (2) thereof:

(i) for the words “A retirement fund shall comply” there shall be substituted the words “A retirement fund or scheme shall comply”; and

(ii) in paragraph (d) thereof, for the words “the retirement fund shall derive” there shall be substituted the words “the retirement fund or scheme shall derive”;

(c) in subarticle (3) thereof, for the words “retirement fund shall comply” there shall be substituted the words “retirement fund or scheme shall comply”; and

(d) in paragraph (b) of subarticle (4) thereof:

(i) for the words “to a retirement fund and” there shall be substituted the words “to a retirement fund or scheme and”; and

(ii) for the words “by the retirement fund.” there shall be substituted the words “by the retirement fund or scheme.”.

Amendment of  
article 50 of the  
principal Act.

**130.** In paragraph (b) of subarticle (1) of article 50 of the principal Act, for the words “Retirement Fund Custodian” there shall be substituted the words “Retirement Fund or Scheme Custodian” .



## SCHEDULE

(Article 2)

### INSURANCE INTERMEDIARIES AND INSURANCE INTERMEDIARIES ACTIVITIES

For the purposes of paragraph 1 of the Third Column of this Schedule, “risk” means and includes a risk situated in Malta or a risk situated outside Malta; and “risk situated outside Malta”, in relation to a contract of insurance, has the same meaning as is assigned to it by subarticle (1) of article 2 of the Insurance Business Act;

First Column	Second Column	Third Column
Independent Insurance Intermediaries	Dependent Insurance Intermediaries	Insurance Intermediaries Activities
Insurance Broker		<p><b>1.</b> Professional activities of persons listed in the First Column of this Schedule who, acting with complete freedom as to their choice of lawful insurers, bring together, with a view to the insurance or reinsurance of risks or commitments, persons seeking insurance or reinsurance and insurers or reinsurers, carry out work preparatory to the conclusion of contracts of insurance or reinsurance and, where appropriate, assist in the administration and performance of such contracts, in particular in the event of a claim;</p> <p><b>2.</b> Professional activities of persons listed in the Second Column of this Schedule who are appointed by an authorised company to be its agent in respect of business of insurance with authority to enter into contracts of insurance on behalf of the company under the terms of the appointment;</p> <p><b>3.</b> Professional activities of persons listed in the Second Column of this Schedule which consist of accepting an appointment from:</p>
	Insurance Agent	
	Insurance Manager	

First Column	Second Column	Third Column
Independent Insurance Intermediaries	Dependent Insurance Intermediaries	Insurance Intermediaries Activities
	Tied Insurance Intermediary	<p>(a) an insurer or reinsurer to manage any part of its business, or to exercise managerial functions therein, or to be responsible for maintaining accounts or other records of such insurer or reinsurer and in this context, “management” includes authority to enter into contracts of insurance on behalf of the insurer or reinsurer under the terms of the appointment; and</p> <p>(b) an insurance broker enrolled under this Act, restricted to contracts of insurance relating to risks situated outside of Malta, to manage any part of its business, or to exercise managerial functions therein, or to be responsible for maintaining accounts or other records for the broker;</p> <p><b>4.</b> Activities of persons listed in the Second Column of this Schedule who, carry on insurance intermediaries activities for or on behalf of one or more authorised companies in the case of insurance products which are not in competition, acting under the full responsibility of those authorised companies for the products which concern them respectively and who may collect premiums or amounts intended for the policyholder, provided that no insurance commitments towards or on the part of the public are given as part of these activities.</p>

Passed by the House of Representatives at Sitting No. 424 of 25th July, 2006.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*I assent.