

**ATT TA' L-1998 DWAR *BROKERS* FL-ASSIGURAZZJONI
U INTERMEDJARJI OHRA**

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Intermedjarji fl-Assigurazzjoni u Attivitajiet ta' Intermedjarji fl-Assigurazzjoni

Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI
President

21 ta' Lulju , 1998

ATT Nru. XVIII ta' l-1998

ATT biex jirregola r-registrazzjoni ta' brokers fl-assigurazzjoni u intermedjarji oħra u attivitajiet ta' intermedjarji fl-assigurazzjoni.

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

PRELIMINARI

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1998 dwar *Brokers* fl-Assigurazzjoni u Intermedjarji oħra. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jkunu hekk stabbiliti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'oħra - Tifsir.

“assigurazzjoni affiljata” għandha l-istess tifsir kif mogħti lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1998 dwar il-Kummerè ta' l-Assigurazzjoni; Att XVII ta' l-1998.

“attivitajiet ta' intermedjarji fl-assigurazzjoni” u “attivitajiet” ifissru kull waħda mill-attivitajiet imniżżlin fil-paragrafi (1) u (2) tat-Tielet Kolonna ta' l-Iskeda u jinkludu kull attivitajiet oħra li jistgħu jigu preskritti;

“attivitajiet ta’ sotto-aġenzija ta’ l-assigurazzjoni”, dwar persuna registrata bhala sotto-aġent fl-assigurazzjoni, tfisser l-attivitajiet imnizzlin fil-paragrafu (2) tat-Tielet Kolonna ta’ l-Iskeda;

“Awtorità Kompetenti” tfisser il-korp mahtur taht is-subartikolu (2) ta’ l-artikolu 3 ta’ l-Att ta’ l-1998 dwar il-Kummerç ta’ l-Assigurazzjoni;

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

“ċertifikat ta’ iskrizzjoni” –

(a) dwar kumpannija li tmexxi kummerç bhala *broker* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-Awtorità Kompetenti taht l-artikolu 14 ta’ dan l-Att lill-kumpannija, li juri li dik il-kumpannija tkun iskritta fil-Lista tal-*Brokers*; u

(b) dwar persuna registrata bhala sotto-aġent fl-assigurazzjoni fir-Registru ta’ Sotto-aġenti ta’ Kumpannija ta’ xi kumpannija, tfisser ċertifikat mahruġ mill-awtorità kompetenti taht l-artikolu 33 ta’ dan l-Att, lill-kumpannija li tirreġistra lil dik il-persuna, li juri li dik il-persuna tkun iskritta fil-Lista ta’ Sotto-aġenti;

“ċertifikat ta’ registrazzjoni”, dwar persuna registrata bhala *broker* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-Awtorità Kompetenti taht l-artikolu 14 ta’ dan l-Att lil dik il-persuna, li juri li dik il-persuna tkun registrata fir-Registru tal-*Brokers*;

“Direttiva dwar Intermedjarji fl-Assigurazzjoni” tfisser Direttiva dwar attivitajiet ta’ intermedjarji fl-assigurazzjoni mahruġa mill-Awtorità Kompetenti bis-saħha tas-subartikolu (2) ta’ l-artikolu 4 ta’ dan l-Att;

“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 bħal daww magħmula minn direttur u, relattivament għal kumpannija barranija, tinkludi membru ta’ bord lokali kif ukoll aġent u l-persuna msemmija bhala r-rappreżentant ta’ dik il-kumpannija għall-fini tas-sub-paragrafu (ii) tal-paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 10 ta’ dan l-Att;

“fergha”–

(a) dwar kumpannija lokali li tmexxi kummerċ bhala *broker* fl-assigurazzjoni, jew li tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistghu jigu preskritti, tfisser il-fond tal-kumpannija, barra mill-uffiċċju principali taghha, minn fejn jitmexxew il-kummerċ ta' *broking* fl-assigurazzjoni jew attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistghu jigu preskritti; u

(b) dwar kumpannija barranija li tmexxi kummerċ bhala *broker* fl-assigurazzjoni jew li tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni kif jista' jkun preskritti, tfisser il-fond f' Malta tal-kumpannija minn fejn il-kummerċ ta' *broking* fl-assigurazzjoni jew attivitajiet ohra ta' intermedjarji fl-assigurazzjoni ohra kif jistghu jigu preskritti jitmexxew minn persuna li tissodisfa l-htigijiet tas-subartikolu (2) ta' l-artikolu 10 ta' dan l-Att u li jkollha awtorità li tagixxi għall-kumpannija;

“fondi tal-kumpannija stess” ghandha tiftiehem skond Direttiva dwar l-Intermedjarji fl-Assigurazzjoni maghmula għall-fini ta' dan l-Att biex tistabbilixxi l-elementi li jikkostitwixxu l-fondi tal-kumpannija stess;

“funzjonijiet” tinkludi responsabbiltajiet, setghat u dmirijiet;

“grupp” u “gruppi ta' klassijiet”, dwar kummerċ ġenerali, tfisser xi grupp ta' klassijiet jew partijiet minn klassijiet speċifikati fit-Tielet Skeda li tinsab ma' l-Att ta' l-1998 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” ghandha tiftiehem f'dan is-sens;

“intermedjarju fl-assigurazzjoni” tfisser persuna li, bhala kummerċ, jew bhala parti mill-impieg taghha, taqa' taht xi wahda mill-kategoriji mnizzlin fl-Ewwel jew fit-Tieni Kolonna ta' l-Iskeda u tinkludi persuna li tipprovdi servizzi anċillari għal attivitajiet ohra ta' intermedjarji fl-assigurazzjoni kif jista' jigi preskritti;

“iskritt” -

(a) dwar kumpannija li tmexxi kummerç bhala *broker* fl-assigurazzjoni, tfisser iskritt fil-Lista tal-*Brokers* taht l-artikolu 13 ta' dan l-Att; u

(b) dwar persuna registrata bhala sotto-aġent fl-assigurazzjoni, tfisser iskritta fil-Lista ta' Sotto-aġenti taht l-artikolu 33 ta' dan l-Att,

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

“klassi” -

(a) dwar kummerç fit-tul, tfisser xi waħda mill-klassijiet speċifikati fit-Tieni Skeda li tinsab ma' l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni; u

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

“klijent”, dwar kumpannija iskritta, tfisser persuna li tikkuntattja, jew li tiġi kuntattjata minn, kumpannija iskritta bil-ghan li tikseb jew li taghti parir dwar il-htigiet ta' assigurazzjoni tagħha jew l-ghemil ta' kuntratt ta' assigurazzjoni ma' kumpannija ta' l-assigurazzjoni jew li għaliha l-kumpannija iskritta tkun irrangat kuntratt ta' assigurazzjoni ma' kumpannija ta' assigurazzjoni;

“kondizzjonijiet” tinkludi obbligazzjonijiet u restrizzjonijiet;

“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, waħedha jew flimkien ma' oħrajn, teżercita kontroll relattivament għall-korp ġuridiku;

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

“Korp ta' l-Assigurazzjoni Rikonoxxut” ghandha l-istess tifsira mogħtija lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni;

“kummerç ta' *broking* fl-assigurazzjoni”, dwar *broker* fl-assigurazzjoni registrat jew kumpannija iskritta, 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 ta’ l-1998 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 ta’ l-1998 dwar il-Kummerċ ta’ l-Assigurazzjoni, biex tmexxi kummerċ ta’ l-assigurazzjoni, u tinkludi persuna awtorizzata taħt l-imsemmi Att biex taġixxi bħala aġent fl-assigurazzjoni ta’ dik il-kumpannija jew persuna;

“kumpannija barranija” tfisser kumpannija jew soċjetà in akkomandita, 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-dispożizzjonijiet ta’ xi liġi li minn żmien għal żmien tkun isseħh f’ Malta u li tkun tirreferi għaliha;

“kumpannija lokali” tfisser kumpannija b’responsabbiltà limitata ffurmata u reġistrata skond l-Att ta’ l-1995 dwar il-Kumpanniji, u tinkludi, bla ħsara għas-subartikolu (2) ta’ dan l-artikolu, soċjetà in akkomandita, li l-kapital tagħha jkun maqsum f’azzjonijiet, iffurmata u reġistrata skond l-imsemmi Att; Att XXV ta’ l-1995.

“kumpannija ta’ l-assigurazzjoni”, dwar kumpannija iskritta, tfisser u tinkludi kumpannija, membru ta’ Korp ta’ l-Assigurazzjoni Rikonoxxut jew ta’ kull impriża oħra li leġittimament tmexxi kummerċ ta’ l-assigurazzjoni;

“kuntratt ta’ assicurazzjoni” u “kuntratt” għandhom l-istess tifsiriet kif mogħti lilhom bis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att ta’ l-1998 dwar il-Kummerċ ta’ l-Assigurazzjoni;

“Lista tal-*Brokers*” tfisser il-lista ta’ kumpanniji li jmexxu kummerċ bħala *brokers* fl-assigurazzjoni stabbilita u miżmuma taħt l-artikolu 7 ta’ dan l-Att;

“Lista ta’ Sotto-aġenti” tfisser il-lista ta’ sotto-aġenti fl-assigurazzjoni reġistrati minn kumpanniji awtorizzati stabbilita u miżmuma taħt is-subartikolu (1) ta’ l-artikolu 31 ta’ dan l-Att;

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

“*money laundering*” ghandha l-istess tifsir kif moghti lilha bl-Att ta' l-1994 kontra *Money Laundering*;

“preskritt” tfisser preskritt b'regoli jew b'regolamenti maghmula taht dan l-Att;

“rabta” u “pajjiż tar-rabta” ghandhom l-istess tifsiriet kif moghti lilhom bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni;

“rappreżentant” –

(a) dwar kumpannija li l-uffiċċju prinċipali taghha jkun f'pajjiż barra minn Malta, li ma tkunx Lloyd's jew xi wiehed mill-membri taghha jew Korp ta' l-Assigurazzjoni Rikonoxxut jew xi wiehed mill-membri tieghu, ghandha tiftiehem skond l-artikolu 12 ta' l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni;

(b) dwar Lloyd's jew xi wiehed mill-membri taghha jew Korp ta' l-Assigurazzjoni Rikonoxxut jew xi wiehed mill-membri tieghu, ghandha tiftiehem skond il-paragrafi 4.1, 4.2 u 4.3 ta' l-Ewwel Skeda li tinsab ma' dak l-Att;

“regiſtrat”-

(a) dwar persuna regiſtrata bhala *broker* fl-assigurazzjoni taht l-artikolu 13 ta' dan l-Att, tfisser ir-regiſtrat fir-Regiſtru tal-*Brokers*; u

(b) dwar persuna regiſtrata bhala sotto-aġent fl-assigurazzjoni taht l-artikolu 33 ta' dan l-Att, tfisser regiſtrata fir-Regiſtru ta' Kumpannija ta' Sotto-aġenti ta' kumpannija wahda jew iżjed,

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

“Regiſtru tal-*Brokers*” tfisser ir-regiſtru tal-*brokers* fl-assigurazzjoni stabbilit u miżmum taht l-artikolu 5 ta' dan l-Att;

“Regiſtru ta' Kumpannija ghal Sotto-aġenti”, dwar kumpannija awtorizzata, tfisser ir-regiſtru ta' kumpannija ghal sotto-aġenti fl-assigurazzjoni stabbilit u miżmum mill-kumpannija taht is-subartikolu (1) ta' l-artikolu 29 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 li ntqal qabel, 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 ċinematografi, bil-mezz ta’ xandir bis-smigh jew bit-televizjoni, bit-tqassim ta’ registrazzjonijiet jew b’xi mod iehor, u riferenzi għall-hruġ ta’ reklam għandhom jiftiehem f’dan is-sens;

“riskju sitwat f’Malta” għandha l-istess tifsir kif mogħti lilha bis-subartikolu (1) ta’ l-artikolu 2 ta’ l-Att ta’ l-1998 dwar il-Kummerċ ta’ l-Assigurazzjoni;

“sena finanzjarja” għandha tiftiehem skond is-subartikolu (4) ta’ l-artikolu 26 ta’ dan l-Att;

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

“sotto-aġent fl-assigurazzjoni” tfisser persuna li tmexxi attivitajiet ta’ sotto-aġenzija fl-assigurazzjoni;

“uditur approvat” u “uditur” għandhom it-tifsir mogħti lilhom bis-subartikolu (10) ta’ l-artikolu 27 ta’ dan l-Att;

“uffiċjal”, dwar kumpannija, tinkludi direttur, soċju, *manager*, jew segretarju tal-kumpannija jew xi persuna li effettivament taġixxi f’kariga bħal dik sew jekk maħtura formalment u sew jekk le.

(2) Id-dispożizzjonijiet ta’ dan l-Att għandhom japplikaw għal soċjetà in akkomandita bla hsara għal dawk il-modifikazzjonijiet li l-Awtorità Kompetenti tista’, minn żmien għal żmien, tagħmel f’xi dispożizzjoni tiegħu, liema modifikazzjonijiet ma għandhomx materjalment inaqqsu mill-għan prinċipali tad-dispożizzjoni hekk modifikata.

(3) F’dan l-Att u f’kull regoli jew regolamenti magħmula bis-sahha tiegħu, jekk ikun hemm xi konflitt bejn it-test Inġliż u t-test Malti, għandu jipprevali t-test Inġliż.

SETGHAT REGOLATORJI

3. (1) Għandu jkun id-dmir tal-Ministru li jeżercita s-setgħat mogħtija lilu b’dan l-Att sabiex jiżgura t-tharis, minn persuni registrati

Setgħat u dmirijiet tal-Ministru.

bhala *brokers* fl-assigurazzjoni, kumpanniji iskritti biex imexxu kummerċ bhala *brokers* fl-assigurazzjoni u persuni li jmexxu attivitajiet oħra ta' intermedjarji fl-assigurazzjoni, tad-dispożizzjonijiet ta' dan l-Att u ta' kull regoli u regolamenti magħmula bis-saħħa tiegħu u ta' dawk il-kondizzjonijiet li minn żmien għal żmien ikunu speċifikati fiċ-ċertifikat ta' reġistrazzjoni jew ta' iskrizzjoni rispettiv.

(2) L-Awtorità Kompetenti mahtura taht is-subartikolu (2) ta' l-artikolu 3 ta' l-Att ta' l-1998 dwar il-Kummerċ ta' l-Assigurazzjoni għandha taqdi l-funzjonijiet ta' l-Awtorità Kompetenti taht dan l-Att u dawk il-funzjonijiet l-oħra li l-Ministru jidhiru xierqa dwar it-thaddim ta' dan l-Att.

(3) Il-Ministru jista', wara konsultazzjoni ma' l-Awtorità Kompetenti, jagħmel ir-regoli jew ir-regolamenti li jistgħu jkunu meħtieġa sabiex titwettaq kull waħda mid-dispożizzjonijiet ta' dan l-Att u sabiex jemenda jew jirrevoka l-Iskeda u jista' jemenda jew jirrevoka dawk ir-regoli jew regolamenti; u, bla hsara għall-ġeneralità ta' dak li ntqal qabel, il-Ministru jista', b'dawk ir-regoli jew regolamenti, b'mod partikolari, jipprovdi għal xi haġa jew kull haġa minn dan li ġej –

(a) id-drittijiet u l-ħlasijiet li għandhom jingabru dwar kull haġa provduta għaliha b'dan l-Att jew tahtu u kull regoli jew regolamenti magħmula taht dan l-artikolu;

(b) ir-reġistrazzjoni u l-iskrizzjoni ta' persuni, barra minn persuni reġistrati u iskritti bis-saħħa ta' dan l-Att, li jmexxu attivitajiet ta' intermedjarji fl-assigurazzjoni jew li jipprovdu għal servizzi aċċillari għall-kummerċ ta' l-assigurazzjoni kif jista' jiġi preskritt;

(c) kull haġa li għandha x'taqsam jew li hi konnessa ma' xi dispożizzjoni li tinsab fl-Iskeda;

(d) il-penalitajiet amministrattivi li jistgħu jiġu imposti u miġbura mill-Awtorità Kompetenti dwar infrazzjonijiet li jistgħu jiġu preskritti 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' hamest elf lira Maltija dwar xi infrazzjoni u, meta l-infrazzjoni tkompli, penali oħra ta' mhux iżjed minn hamsin lira Maltija għal kull jum li matulu l-infrazzjoni tkompli;

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

(4) Il-Ministru jista' wkoll b'regolamenti taht dan l-artikolu, wara konsultazzjoni ma' l-Awtorità Kompetenti, jestendi u jagħmel applikabbli kull waħda mid-dispożizzjonijiet ta' dan l-Att għal xi attività ta' intermedjarju fl-assigurazzjoni li tista' tiġi preskritta li fil-fehma tiegħu għandha, fl-interess pubbliku, tkun regolata b'dawk id-dispożizzjonijiet.

(5) Regoli u regolamenti magħmula taht dan l-Att u kull emenda jew revoka ta' dawk ir-regoli u regolamenti, jistgħu jkunu pubblikati bl-ilsien Ingliż biss.

4. (1) Għandu jkun id-dmir ta' l-Awtorità Kompetenti li taqdi l-funzjonijiet mogħtija lilha b'dan l-Att jew tahtu u li tiżgura li persuni, kumpanniji jew intermedjarji ta' l-assigurazzjoni reġistrati jew iskritti skond dan l-Att u regoli jew regolamenti magħmula tahtu jharsu d-dispożizzjonijiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula tahtu, id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni magħmula mill-Awtorità Kompetenti bis-saħħa ta' dan l-Att u ta' kull regoli u regolamenti magħmula tahtu, u mal-kondizzjonijiet speċifikati f'ċertifikati ta' reġistrazzjoni jew iskrizzjoni.

Setgħat u
dmirijiet ta'
l-Awtorità
Kompetenti.

(2) L-Awtorità Kompetenti tista' tagħmel Direttivi dwar Intermedjarji fl-Assigurazzjoni kif ikun meħtieġ sabiex jingħata effett lil kull waħda mid-dispożizzjonijiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula bis-saħħa tiegħu. L-Awtorità Kompetenti tista' temenda jew tirrevoka dawk id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni.

(3) Direttivi dwar Intermedjarji fl-Assigurazzjoni u kull emenda għalihom jew revoka tagħhom għandhom ikunu komunikati lill-persuni jew kumpanniji li għandhom x'jaqsmu u l-pubbliku jkun jista' jarahom fl-uffiċċji ta' l-Awtorità Kompetenti f'kull hin matul il-hinijiet normali tax-xogħol ta' l-Awtorità.

(4) Direttivi dwar Intermedjarji fl-Assigurazzjoni magħmula mill-Awtorità Kompetenti bis-saħħa ta' dan l-Att jistgħu jipprovdu li htigiet regolatorji differenti jkunu applikabbli għal kategoriji differenti ta' intermedjarji fl-assigurazzjoni; u bla hsara għad-Direttivi dwar Intermedjarji fl-Assigurazzjoni li huma mahruġa li jsiru taht dan l-Att u

ghall-generalità ta' dak li ntqal qabel, l-Awtorità Kompetenti tista', b'dawk id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni, b'mod partikolari –

(a) tistabilixxi x'jikkostitwixxi x'inhom xieraq u idoneju dwar intermedjarji fl-assigurazzjoni;

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

(c) tistabilixxi t-taghrif li kumpanniji iskritti li jmexxu kummerċ bhala *brokers* fl-assigurazzjoni u persuni li jmexxu attivitajiet ohra ta' intermedjarji fl-assigurazzjoni ghandhom jaghtu lil persuni li jkunu qed jitolbu jew jaghmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(d) tistabilixxi l-kodiċijiet ta' mgieba li jistghu jirregolaw kull aspett ta' negozju bejn l-intermedjarji fl-assigurazzjoni u kumpanniji fl-assigurazzjoni jew bejn dawk l-intermedjarji u persuni li jitolbu jew jaghmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(e) tistabilixxi, dwar kummerċ ta' attivitajiet intermedjarji fl-assigurazzjoni, il-hruġ ta' reklami, u l-ghemil ta' xi attivitajiet ohra promozzjonali.

REGISTRAZZJONI JEW ISKRIZZJONI GHAT-TMEXXIJA TA' KUMMERĊ BHALA *BROKERS* FL-ASSIGURAZZJONI

Ir-registru ta' *brokers* fl-assigurazzjoni.

5. L-Awtorità Kompetenti ghandha tistabilixxi u żżomm registru ta' persuni li jmexxu kummerċ ta' *broking* fl-assigurazzjoni, f'dan l-Att imsejjah "ir-Registru tal-*Brokers*", li jkun fih l-ismijiet, l-indirizzi, il-kwalifiki, u dawk il-partikolaritajiet l-ohra li l-Awtorità Kompetenti tista', minn żmien ghal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabilixxi, tal-persuni kollha li taht dan l-Att ghandhom il-jedd li jkunu registrati fih u li japplikaw bil-mod stabbilit f'dik id-Direttiva biex ikunu hekk registrati.

Kwalifiki għal registrazzjoni.

6. (1) Bla ħsara għas-subartikolu (2) ta' dan l-artikolu, persuna ghandha jedd li tkun registrata fir-Registru tal-*Brokers* jekk tissodisfa lill-Awtorità Kompetenti li –

(a) tkun individwu;

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

(ċ) ikollha l-kwalifiki u tissodisfa jew thares il-htigiet stabbiliti b'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-finijiet ta'dan l-artikolu.

(2) Persuna ma jkollhiex jedd li tmexxi xi kummerċ ta' *broking* fl-assigurazzjoni bis-saħħa tar-reġistrazzjoni tagħha taht dan l-artikolu kemm-il darba ma tkunx direttur jew impjegat ta' kumpannija li tkun iskritta taht l-artikolu 9 jew 10 ta' dan l-Att.

7. L-Awtorità Kompetenti għandha tistabbilixxi u żżomm lista ta' kumpanniji li jkunu qed imexxu kummerċ bħala *brokers* fl-assigurazzjoni, f'dan l-Att imsejha "il-Lista tal-*Brokers*", li jkun fiha l-ismijiet, il-postijiet prinċipali tan-negozju u dawk il-partikolaritajiet l-oħra li l-Awtorità Kompetenti tista', minn żmien għal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-fini ta' dan l-artikolu, tistabbilixxi, tal-kumpanniji kollha li taht dan l-Att għandhom il-jedd li jkunu iskritti fiha u li japplikaw bil-mod stabbilit f'dik id-Direttiva biex ikunu hekk iskritti.

Lista ta' kumpanniji li jmexxu kummerċ ta' *brokers* fl-assigurazzjoni.

8. Bla hsara għall-artikolu 9 jew 10 ta' dan l-Att, skond il-każ, kumpannija jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk tissodisfa lill-Awtorità Kompetenti li -

Htigiet generali dwar iskrizzjoni.

(a) l-għanijiet tal-kumpannija jkunu limitati għall-kummerċ ta' *broking* fl-assigurazzjoni u għal hwejjeġ jew funzjonijiet konnessi miegħu jew anċillari għalih, bl-eskluzjoni ta' kull kummerċ ta' negozju iehor, barra minn kummerċ stabbilit b'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu;

(b) il-fondi tal-kumpannija stess, kemm jekk f'li Maltin jew fi flus oħra aċċettabbli għall-Awtorità Kompetenti, li f'kull żmien ikunu hielsa, jammontaw għal valur ta' mhux inqas minn hamsa u għoxrin elf lira Maltin, jew dak il-valur oghla li jista' jiġi preskritt:

Iżda l-Awtorità Kompetenti tista' wkoll teħtieġ dak il-valur oghla li jidhrilha xieraq għax-xorta ta' kummerċ li jkun maħsub li jitmexxa mill-kumpannija;

(ċ) l-azzjonisti kwalifikanti kollha, il-kontrolluri u l-persuni kollha li effettivament jidderiġu l-funzjonijiet jew imexxu l-

attivitajiet tal-kumpannija huma xierqa u idoneji biex jiżguraw id-direzzjoni tajba u prudenti tagħha;

(d) il-kumpannija tikkaxef għas-sodisfazzjon ta' l-Awtorità Kompetenti dak it-tagħrif li l-Awtorità Kompetenti tkun talbet minn għandha dwar il-persuni li, ma' l-iskrizzjoni tal-kumpannija jkollhom xi interess proprjetarju, finanzjarju jew xi interess iehor, f'dik, jew in konnessjoni ma', dik il-kumpannija;

(e) il-kumpannija tissottometti għas-sodisfazzjon ta' l-Awtorità Kompetenti skema ta' operazzjonijiet li għandha tinkludi partikolaritajiet jew provi kif jista' jiġi stabbilit bid-Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu;

(f) il-kumpannija jkollha fiż-żminijiet kollha favur tagħha polza ta' assicurazzjoni ta' indennizz professjonali aċċettabbli mill-Awtorità Kompetenti, li jindennizza lilha, jew lil kull persuna impjegata minnha, jew li xort'ohra tagixxi għan-nom tagħha, f'dak l-ammont, b'dak il-mod u dwar dawk il-hwejjeġ li l-Awtorità Kompetenti tista' tistabbilixxi minn żmien għal żmien.

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

9. Kumpannija lokali jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk, b'żieda mal-htigiet ta' l-artikolu 8 ta' dan l-Att, l-Awtorità Kompetenti tkun sodisfatta li wiehed jew iżjed mid-diretturi tal-kumpannija jkunu *brokers* fl-assigurazzjoni reġistrati u l-kummerċ tal-*broking* fl-assigurazzjoni jkun qed jitmexxa taht id-direzzjoni ta' *broker* fl-assigurazzjoni reġistrat.

Htiġiet speċifiċi għal iskrizzjoni fil-każ ta' kumpanniji barranin.

10. (1) Kumpannija barranija jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk, b'żieda mal-htigiet ta' l-artikolu 8 ta' dan l-Att, l-Awtorità Kompetenti tkun sodisfatta li –

(a) il-kumpannija tkun reġistrata jew ikollha l-permess fil-pajjiż fejn l-uffiċċju prinċipali tagħha jkun qiegħed sitwat biex tmexxi kummerċ ta' *broking* fl-assigurazzjoni;

(b) il-kumpannija jkollha f'Malta f'kull hin –

(i) fergħa; u

(ii) rappreżentant.

(2) Dwar fergħa ta' kumpannija barranija li tkun qed tmexxi kummerċ bħala *broker* fl-assigurazzjoni jew li tkun qed tmexxi xi attivitajiet ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu preskritti,

il-htigiet hemmhekk imsemmija huma dawn li jidhru fid-dispożizzjonijiet li ġejjin ta' dan is-subartikolu –

(a) fil-każ ta' kumpannija li tkun qed tmexxi kummerċ bhala *broker* fl-assigurazzjoni:

(i) il-persuna tkun *broker* fl-assigurazzjoni registrat;

(ii) il-persuna tkun direttur tal-kumpannija jew ikollha l-awtorità li taġixxi ghan-nom ta' dik il-kumpannija; u l-kummerċ ta' *broking* fl-assigurazzjoni jkun qed jitmexxa taht id-direzzjoni tagħha;

(iii) il-persuna ma tkunx uditur approvat, jew soċju jew impjegat ta' uditur approvat tal-kumpannija;

(b) fil-każ ta' kumpannija li tkun qed tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu preskritti, id-dispożizzjonijiet li jkunu preskritti.

11. Ebda persuna ma ghandha taġixxi bhala *broker* fl-assigurazzjoni u tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-persuna ma tkunx registrata taht l-artikolu 13 ta' dan l-Att.

Registrazzjoni ta' persuni ghat-tmexxija ta' kummerċ bhala *brokers* fl-assigurazzjoni.

12. (1) Ebda kumpannija li tkun kumpannija lokali ma ghandha tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, jew f'pajjiż jew minn pajjiż barra minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-kumpannija ma tkunx iskritta taht l-artikolu 13 ta' dan l-Att.

Iskrizzjoni ta' kumpanniji ghat-tmexxija ta' kummerċ bhala *brokers* fl-assigurazzjoni.

(2) Ebda kumpannija li tkun kumpannija barranija ma ghandha tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-kumpannija ma tkunx iskritta taht l-artikolu 13 ta' dan l-Att.

13. (1) Applikazzjoni ghal registrazzjoni jew iskrizzjoni taht dan l-artikolu ghandha ssir f'dik il-forma u b'dak il-mod li l-Awtorità Kompetenti tista' tistabilixxi minn żmien ghal żmien.

Ghoti ta' registrazzjoni jew iskrizzjoni.

(2) L-Awtorità Kompetenti jkollha s-setgħa li tehtieg lil applikant jipprovdi dak it-tagħrif li jidhriha mehtieg sabiex tiddeċiedi dwar applikazzjoni jew iskrizzjoni taht dan l-artikolu.

(3) L-Awtorità Kompetenti tista' tagħti registrazzjoni jew iskrizzjoni taht dan l-artikolu biss jekk tkun sodisfatta, fuq il-bażi tat-

taghrif mehtieg li jinghata taht dan l-Att u kull taghrif li hi tircievi, li r-registrazzjoni jew l-iskrizzjoni ghandha tinghata.

(4) Bla hsara ghad-dispozizzjonijiet ta' dan l-Att, l-Awtorità Kompetenti tista' tissuggetta registrazzjoni jew iskrizzjoni maghmula taht dan l-artikolu ghal dawk il-kondizzjonijiet li minn zmien ghal zmien jidhrilha xierqa li timponi.

(5) L-Awtorità Kompetenti ghandha tiddeciedi applikazzjoni ghal registrazzjoni jew iskrizzjoni taht dan l-artikolu fi zmien tliet xhur minn meta tircievi t-taghrif li hu mehtieg li jinghata taht dan l-Att; u jekk tirrifjuta li taghti r-registrazzjoni jew l-iskrizzjoni ghandha tgharraf lill-applikant bil-miktub ir-raġunijiet ghar-rifjut.

Certifikati ta' registrazzjoni jew iskrizzjoni.

14. (1) Ma' l-ghoti ta' applikazzjoni ghal registrazzjoni jew iskrizzjoni taht l-artikolu 13 ta' dan l-Att, l-Awtorità Kompetenti ghandha tohrog lill-applikant koncernat certifikat ta' registrazzjoni jew iskrizzjoni fil-forma u bil-mod li jidhrilha xieraq u li juri –

(a) fil-każ ta' applikazzjoni ghal registrazzjoni, ir-registrazzjoni ta' l-applikant koncernat fir-Registru tal-*Brokers*;

(b) fil-każ ta' applikazzjoni ghal iskrizzjoni, iskrizzjoni ta' l-applikant koncernat fil-Lista tal-*Brokers*.

(2) Certifikat ta' registrazzjoni jew iskrizzjoni mahrug taht dan l-artikolu jew kopja ufficjali tieghu, ghandha titqiegħed għall-wiri f' post prominenti mid-detentur koncernat fil-post jew fil-postijiet tan-negozju tieghu, jew f' parti minnhom fejn il-pubbliku jkollu access.

Ftuh ta' ferghat minn kumpanniji lokali iskritti.

15. (1) Kull kumpannija lokali iskritta taht l-artikolu 13 ta' dan l-Att ghandha tapplika għand l-Awtorità Kompetenti bil-miktub qabel ma tiftah fergha f'Malta.

(2) L-Awtorità Kompetenti tista' tagħti permess lil kumpannija lokali iskritta kif intqal qabel li tiftah fergha f'Malta jekk tkun sodisfatta li l-kummerc ta' *broking* fl-assigurazzjoni li jitmexxa minnha minn dik il-fergha jkun taht id-direzzjoni ta' *broker* fl-assigurazzjoni registrat.

(3) Hlief bil-kunsens bil-miktub ta' l-Awtorità Kompetenti, ebda kumpannija lokali iskritta kif intqal qabel ma tista' tiftah fergha jew ufficcju jew tistabilixxi jew takkwista xi sussidjarja f'xi pajjiz barra minn Malta.

16. Bla hsara ghal kull haġa li tinsab f'xi dispożizzjoni oħra ta' dan l-Att, l-Awtorità Kompetenti tista' f'kull żmien thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* l-isem ta' kull persuna registrata jew kumpannija iskritta jekk –

Thassir ta' isem mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*.

(a) xi dokument jew tagħrif li jinghata ma' applikazzjoni għar-registrazzjoni jew iskrizzjoni, jew xi tagħrif li jinghata dwarha, ikun falz, mhux korrett jew qarrieqi f'xi partikolar materjali, jew jekk il-persuna registrata jew il-kumpannija iskritta tkun hbiet, jew hbiet minn, jew tonqos li tgharraf lil, l-Awtorità Kompetenti xi dokument jew tagħrif jew tibdil fih li kienet fid-dmir li tikxef jew li tgharraf taht dan l-Att jew xi regoli jew regolamenti magħmula bis-sahha tiegħu, jew xi Direttiva dwar Intermedjarji fl-Assigurazzjoni; jew

(b) tikkunsidra li l-persuna registrata jew l-kumpannija iskritta ma tkunx tissodisfa il-htigiet ta', jew tkun kisret, xi wahda mid-dispożizzjonijiet ta' dan l-Att jew ta' xi regoli jew regolamenti magħmula bis-sahha tiegħu, jew ta' xi Direttiva dwar Intermedjarji fl-Assigurazzjoni, jew tkun naqset li tissodisfa jew thares xi kondizzjoni li hu jew hi, jew ir-registrazzjoni jew l-iskrizzjoni, ikunu sugġetti għaliha bis-sahha ta' dan l-Att jew tahtu; jew

(c) tikkonsidra li l-persuna registrata ma tkunx tajba biex isimha jibqa' fuq ir-Registru tal-*Brokers* jew il-kumpannija iskritta ma tkunx immexxija b'mod tajjeb u prudenti biex isimha jibqa' fuq il-Lista tal-*Brokers*; jew

(d) tirċievi talba bil-miktub biex tagħmel hekk minghand il-persuna registrata jew il-kumpannija iskritta; jew

(e) il-kumpannija iskritta ma jkunx baqgħalha il-fondi tal-kumpannija stess biżżejjed kemm mehtieg; jew

(f) il-persuna registrata jew il-kumpannija iskritta tonqos li thallas id-dritt meta jkun dovut biex tibqa' registrata jew tibqa' iskritta; jew

(g) il-persuna registrata jew il-kumpannija iskritta ma jibdexx imexxu l-kummerċ ta' *broking* fl-assigurazzjoni fi żmien tnax-il xahar mir-registrazzjoni jew mill-iskrizzjoni, jew f'dak iż-żmien l-iehor li jista' jiġi speċifikat fiċ-ċertifikat tar-registrazzjoni jew iskrizzjoni, jew li jista' jinghata mill-Awtorità Kompetenti; jew

(h) il-kumpanija iskritta tkun giet dikjarata falluta jew tmur f'likwidazzjoni jew tagħmel kompożizzjoni mal-kredituri tagħha jew xort'ohra tkun xolta; jew

(i) jekk il-kumpanija iskritta ma jibqax ikollha fuq il-bord tad-diretturi tagħha xi persuna li tkun *broker* fl-assigurazzjoni registrat; jew

(j) tikkonsidra li, minhabba l-mod li bih il-persuna registrata jew il-kumpanija iskritta tkun qed tmexxi l-kummerċ ta' *broking* fl-assigurazzjoni, jew għal xi raġuni valida ohra, l-interess ta' l-industrija ta' l-assigurazzjoni jew tal-pubbliku ikun mhedded; jew

(k) il-persuna registrata jew il-kumpanija iskritta tkun miżapproprjat jew ikkonvertit għall-użu tagħha jew zammet illegalment flus li jkunu miżmuma, jew mehtieha li jinżammu, minnha bhala fiduċjarja; jew

(l) il-persuna registrata tkun misjuba hatja minn xi qorti ta' liġi ta' xi reat kriminali, li ma jkunx reat li, minhabba ċ-ċokon tiegħu jew iċ-ċirkostanzi li fih ikun sar, ma jirrendihix mhux xierqa biex isimha jkun fuq ir-Registru tal-*Brokers*; jew

(m) il-persuna registrata jew il-kumpanija iskritta tkun meqjusa mill-Awtorità Kompetenti li tkun mexxiet kummerċ ta' *broking* fl-assigurazzjoni b'mod mhux professjonali.

Avviż ta' hsieb ta' thassir ta' isem mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*.

17. (1) Bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, meta l-Awtorità Kompetenti jkun bi hsiebha thassar l-isem ta' persuna registrata jew ta' kumpanija iskritta mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*, din għandha tagħti avviż bil-miktub lill-persuna jew lill-kumpanija fejn tagħti r-raġunijiet għaliex bi hsiebha tagħmel hekk.

(2) Kull avviż mogħti taht is-subartikolu (1) ta' dan l-artikolu għandu jgħid li l-persuna jew il-kumpanija konċernata tista', f'dak iż-żmien xieraq min-notifika hekk kif jingħad fl-avviż (li ma jkunx inqas minn tmienja u erbgħin siegħa u mhux iktar minn hmistax-il jum) tagħmel rappreżentazzjonijiet bil-miktub lill-Awtorità Kompetenti fejn tagħti r-raġunijiet għaliex ir-registrazzjoni jew l-iskrizzjoni ma għandhiex tithassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* u l-Awtorità Kompetenti tista' tikkunsidra kull rappreżentazzjonijiet hekk magħmula qabel tasal għal deċiżjoni finali.

(3) L-Awtorità Kompetenti għandha tavża bil-miktub id-deċiżjoni finali tagħha lill-persuna jew lill-kumpanija konċernata

(4) Ma' l-avviż mill-Awtorità Kompetenti lil persuna jew kumpannija li isimha jkun thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*, il-persuna jew il-kumpannija konċernata ghandha minnufih tikkonsenja lill-Awtorità Kompetenti ċ-ċertifikat tar-registrazzjoni jew iskrizzjoni, u kull kopji ufficjali tieghu.

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

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

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

(b) fin-nuqqas ta' dak l-ordni, l-Awtorità Kompetenti, fuq applikazzjoni magħmula lilha għal dan l-ghan, ma tiddeċidix xort'ohra.

(2) L-Awtorità Kompetenti ghandha tiddeċiedi fuq applikazzjoni għar-restituzzjoni ta' isem ta' persuna jew ta' kumpannija fir-Registru tal-*Brokers* jew fil-Lista tal-*Brokers* taht dan l-artikolu fi żmien tliet xhur minn meta tirċievi 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 tal-*Brokers* jew fil-Lista tal-*Brokers*, din ghandha tgħarraf lill-applikant bil-miktub ir-raġunijiet għar-rifjut.

(3) Is-subartikolu (2) ta' dan l-artikolu ma japplikax meta r-restituzzjoni ta' isem ta' persuna jew ta' kumpannija fir-Registru tal-*Brokers* jew fil-Lista tal-*Brokers* ssir b'ordni tat-Tribunal.

(4) Meta l-isem ta' persuna jew kumpannija jithassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* għal xi wahda mir-raġunijiet speċifikati fl-artikolu 16 ta' dan l-Att, jekk l-Awtorità Kompetenti tagħzel li tagħti pubbliċità għat-thassir ta' dak l-isem mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*, l-Awtorità Kompetenti ghandha tippubblika avviż li jagħti pubbliċità lil dak it-thassir ta' isem b'mod li jidhirlha xieraq għall-inqas f'żewġ gazzetti lokali li johorġu kuljum li minnhom wahda tiġi pubblikata bil-Malti u l-oħra bl-Ingliż; u t-test ta' l-avviż għandu jkun bil-Malti fil-gazzetta bil-Malti u bl-Ingliż fil-gazzetta bl-Ingliż.

(5) L-Awtorità Kompetenti jkollha s-setgħa tordna li l-ispejjeż kollha ta' pubblikazzjoni ta' avviż li ssir bis-sahha ta' dan l-artikolu, jew parti minnhom kif jidhirlha xierqa, għandhom jithallsu mill-persuna jew kumpannija konċernata; u kull ammont hekk dovut

ghandu jingabar mill-Awtorità Kompetenti bl-istess mod bhalma tingabar penali amministrattiva imposta skond dan l-Att.

OBBLIGAZZJONIJIET TA' KUMPANNIJI ISKRITTI

Flejjes miżmuma f'kapacità fiduċjarja.

19. (1) Kull kumpannija iskritta ghandha żżomm il-flejjes kollha li jkunu ghandha f'kapacità fiduċjarja separati mill-flejjes tagħha stess u ghandha, dwar dawk il-flejjes, iżżomm kontijiet separati skond htigiet stabbiliti minn Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Ebda persuna m'ghandu jkollha jew tikseb xi rimedju jew dritt dwar flejjes li jkunu bi kreditu tal-kont imsemmi fis-subartikolu (1) ta' dan l-artikolu dwar xi talba jew dritt kontra kumpannija iskritta sakemm kull talba proprja għal dawk il-flejjes tkun giet sodisfatta.

Garanzija ta' fedeltà mehtieġa minn kumpanniji iskritti.

20. (1) Bla hsara għall-artikolu 19 ta' dan l-Att, kull kumpannija iskritta ghandha tagħmel garanzija ta' fedeltà f'forma speċifikata, dwar il-kummerċ tagħha ta' *broking* fl-assigurazzjoni, f'dawk iċ-ċirkustanzi, ta' dak il-valur, b'dak il-mod u taht dawk il-kondizzjonijiet li jstgħu jiġu stabbiliti b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Il-garanzija msemmija fis-subartikolu (1) ta' dan l-artikolu ghandha tipprovdi li fil-każ li kumpannija iskritta ma tkunx tista' jew tonqos milli tissodisfa l-obbligazzjonijiet finanzjarji tagħha dwar xi somom ta' flus riċevuti minnha minghand, jew għan-nom ta', il-klijenti tagħha, somma ta' flus titqiegħed għad-dispożizzjoni ta' persuna nominata jew approvata mill-Awtorità Kompetenti biex tintuża għall-benefiċċju ta' xi klijent tal-kumpannija li jkun sofra telf jew dannu minhabba li l-kumpannija ma tkunx setgħat jew naqset milli tissodisfa dawk l-obbligazzjonijiet finanzjarji tagħha.

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

21. (1) Bla hsara għas-subartikoli li ġejjin ta' dan l-artikolu, 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' assicurazzjoni dwar riskju sitwat f'Malta jew dwar rabta meta Malta tkun il-pajjiż tar-rabta, negozjat, irrangat jew miksub minn kumpannija iskritta f'isem persuna assicurata jew persuna li tkun se tiġi assicurata għandu jsir ma' kumpannija awtorizzata.

(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 ta' l-1998 dwar il-

Kummerç ta' l-Assigurazzjoni u dak il-kuntratt ikun kuntratt dwar riskju sitwat f'Malta u jittiehed ma' *Protection and Indemnity Club*, dak il-*Club* ghandu jkun *Club* taht it-tifsira ta' "*Protection and Indemnity Club*" kif miftiehem skond is-subartikolu (3) ta' l-artikolu 6 ta' l-imsemmi Att; u l-*Club* ghandu jissodisfa jew ihares 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) ta' dan l-artikolu, id-dispożizzjonijiet ta' dan l-artikolu ma japplikawx ghal –

(a) kummerç ta' assigurazzjoni ta' xi klassi, jew ta' parti minn klassi, skond it-tifsir moghti fil-gruppi 3 u 4, li ma jkunux kuntratti dwar riskji marittimu li l-Ministru jista', b'Ordni fil-Gazzetta, minn żmien ghal żmien jistabbilixxi;

(b) kummerç ta' rijassigurazzjoni jew assigurazzjoni affiljata.

22. Kull kumpannija iskritta ghandha, mhux iktar tard mill-ahhar ta' Jannar ta' kull sena, taghti avviż bil-miktub lill-Awtorità Kompetenti b'dak il-mod li l-Awtorità Kompetenti tista' tehtieg, l-isem u l-partikolaritajiet l-oħra li wkoll tista' tehtieg, ta' kull direttur u impjegat tal-kumpannija li jkunu registrati fir-Registru tal-*Brokers*; u matul it-tnax-il xahar ta' wara, il-kumpannija ghandha taghti avviż bil-miktub lill-Awtorità Kompetenti b'kull tibdil li, minn żmien ghal żmien, jista' jkun hemm fost dawk id-diretturi u impjegati, u dak l-avviż ghandu jinghata mhux iktar tard minn ghoxrin jum mid-data li jgħri dan it-tibdil.

Avviż dwar persuni
registrati fir-
Registru
tal-*Brokers*.

23. Kull kumpannija iskritta ghandha, mhux iktar tard minn erba' xhur mid-data ta' l-gheluq tas-sena finanzjarja tagħha, jew f'xi żmien iehor li eċċezzjonalment ikun awtorizzat bil-miktub mill-Awtorità Kompetenti, tibghat lill-Awtorità Kompetenti kopja tad-dikjarazzjonijiet finanzjarji verifikati tagħha li jkunu saru –

Għoti ta' dikjarazz-
jonijiet finanzjarji
verifikati.

(a) fil-każ ta' kumpannija lokali, skond id-dispożizzjonijiet ta' l-Att ta' l-1995 dwar il-Kumpanniji; u

(b) fil-każ ta' kumpannija barranija, skond id-dispożizzjonijiet tal-ligijiet tal-pajjiż fejn l-uffiċċju principali tal-kumpannija jkun sitwat li jirregolaw id-dikjarazzjonijiet finanzjarji ta' dawn il-kumpanniji.

Ghoti ta' dikjarazzjonijiet dwar kummerċ ta' *broking* fl-assigurazzjoni.

24. (1) Bla hsara ghas-subartikoli li gejjin ta' dan l-artikolu, kumpannija iskritta li f'xi sena kalendarja tmexxi kummerċ ta' *broking* fl-assigurazzjoni ghandha, dwar il-kummerċ ta' *broking* fl-assigurazzjoni li hekk tkun mexxiet, tibghat lill-Awtorità Kompetenti dikjarazzjoni dwar dak il-kummerċ maghmula f'dik il-forma, f'dak il-mod u b'dak il-kontenut li l-Awtorità Kompetenti tista' tistabilixxi b'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu; u d-data sa meta dik id-dikjarazzjoni ghandha tintbaghat tkun ukoll stabbilita b'dik id-Direttiva.

(2) Id-dikjarazzjoni li ghandha tinghata taht dan l-artikolu ghandha tkun verifikata bil-mod mehtieg bid-Direttiva dwar Intermedjarji fl-Assigurazzjoni.

(3) L-Awtorità Kompetenti tista' f'kull żmien tordna lil kumpannija iskritta biex tagħtiha dik id-dikjarazzjoni kull tant żmien u għal dak il-perijodu li tista' tispeċifika f'dak l-ordni.

Kumpanniji li jjeqfu mit-tmexxija ta' kummerċ bhala *broker* fl-assigurazzjoni.

25. Kumpannija iskritta ma ghandhiex tieqaf milli tmexxi, f'Malta jew minn Malta, kummerċ bhala *broker* fl-assigurazzjoni hlief bil-permess ta' l-Awtorità Kompetenti mogħti bil-miktub fuq applikazzjoni li ssirilha għal hekk b'dak il-mod li tista' teħtieg, u bit-tharis ta' dawk il-kondizzjonijiet li jidhirlha xierqa li timponi.

SENA FINANZJARJA U UEDITURI

Sena finanzjarja ta' kumpanniji iskritti.

26. (1) Kull kumpannija iskritta li tkun kumpannija lokali ghandha mhux iktar tard minn tliet xhur mid-data ta' l-iskrizzjoni tal-kumpannija, tavża bil-miktub lill-Awtorità Kompetenti meta tkun is-sena finanzjarja tagħha; u, fin-nuqqas ta' dak l-avviż, is-sena finanzjarja tal-kumpannija ghandha tintemm fil-wiehed u tletin ta' Diċembru ta' kull sena.

(2) Ebda kumpannija iskritta kif intqal qabel ma ghandha tibdel is-sena finanzjarja tagħha kemm-il darba u sakemm l-Awtorità Kompetenti ma tkunx tat l-approvazzjoni tagħha bil-miktub fuq applikazzjoni li ssirilha għal hekk.

(3) Kull kumpannija barranija li tapplika għal iskrizzjoni taht l-artikolu 13 ta' dan l-Att ghandha, ma' l-applikazzjoni, tavża bil-miktub lill-Awtorità Kompetenti meta tkun is-sena finanzjarja tagħha; u wara l-iskrizzjoni taht dak l-artikolu, meta kumpannija barranija tibdel is-sena finanzjarja tagħha, ghandha minnufih tavża bil-miktub lill-Awtorità Kompetenti b'dak it-tibdil.

(4) Għall-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 ta' l-1995 dwar il-Kumpanniji;

(b) dwar kumpannija iskritta li tkun kumpannija barranija, tfisser perijodu ta' kontijiet kif jiftiehem skond id-dispożizzjonijiet tal-liġijiet tal-pajjiż fejn ikun qiegħed l-uffiċċju prinċipali tal-kumpannija li jkunu jirregolaw il-perijodu ta' kontijiet ta' dawk il-kumpanniji.

27. (1) Kull kumpannija iskritta għandha kull sena tahtar uditur approvat bhala uditur tal-kumpannija li d-dmir tiegħu jkun li jirrapporta dwar id-dikjarazzjonijiet finanzjarji tal-kumpannija eżaminati minnu u dwar id-dikjarazzjonijiet finanzjarji mhejjija mill-kumpannija.

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

(2) Jekk kumpannija iskritta tonqos li tahtar uditur skond is-subartikolu (1) ta' dan l-artikolu jew, f'xi żmien tonqos li timla vakanza fil-kariga ta' uditur, l-Awtorità Kompetenti jkollha s-setgħa li tahtar uditur għal dik il-kumpannija u għandha tistabbilixxi r-remunerazzjoni li għandha tithallas minn dik il-kumpannija lil dak l-uditur.

(3) Ir-rapport ta' l-uditur għandu jinkludi dikjarazzjoni dwar jekk id-diversi htigiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula tahtu u ta' kull Direttiva dwar Intermedjarji fl-Assigurazzjoni dwar il-kumpannija ikunux tharsu u ġew osservati.

(4) Kull uditur ta' kumpannija iskritta jkollu l-jedd li jitlob dak it-tagħrif jew spjegazzjoni li jidhirlu meħtieġa fil-qadi tad-dmirijiet tiegħu minghand kull uffiċjal jew impjegat ta', jew kull persuna li jkollha hatra minn, dik il-kumpannija.

(5) Uditur għandu minnufih javża bil-miktub lill-Awtorità Kompetenti jekk –

(a) jirriżenja;

(b) ma jkunx bi hsiebu jiehu dik il-kariga mill-ġdid; jew

(c) jiddeciedi li jikkwalifika r-rapport ta' verifika,

u, fil-każ ta' riżenja, l-uditur għandu jispeċifika r-raġunijiet għaliex għamel hekk.

(6) Kumpannija iskritta ghandha taghti avviz bil-miktub lill-Awtorità Kompetenti minnufih malli tirčievi avviz ta' rizoluzzjoni mahsub biex jitqiegħed quddiem il-laqgħa ġenerali annwali tal-kumpannija biex tinhatar bhala uditur persuna li ma tkunx l-uditur li se jirtira jew li xort'ohra jipprovdi espressament li l-uditur li jkun se jirtira ma jergax jiġi mahtur.

(7) Meta, għal 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, tagħti avviz bil-miktub lill-Awtorità Kompetenti fejn tgħid ir-raġunijiet għal dak it-tmiem.

(8) L-Awtorità Kompetenti tista' teħtieġ lil kumpannija iskritta biex tibdel lill-uditur mahtur minnha meta, fil-fehma ta' l-Awtorità Kompetenti, dak l-uditur jitqies li ma jkunx adatt għal din il-kariga, f'xi żmien matul il-perijodu tal-hatra tiegħu.

(9) Qabel ma teħtieġ lil kumpannija iskritta biex tbiddel lill-uditur tagħha fiċ-ċirkostanzi msemmija fis-subartikolu (8) ta' dan l-artikolu, l-Awtorità Kompetenti ghandha tavża bil-miktub l-intenzjoni tagħha lill-kumpannija u lill-uditur konċernat fejn tagħti r-raġunijiet li teħtieġ dak it-tibdil u tagħti lill-uditur l-opportunità li jissottometti fi żmien erbatax-il jum mid-data tan-notifika ta' dak l-avviż, ir-raġuni għaliex il-hatra tiegħu ma' dik il-kumpannija ma għandhiex tintemm.

(10) Għall-finijiet ta' dan l-Att, uditur approvat għandu jkun persuna li tkun kwalifikata biex tkun uditur skond l-Att ta' l-1995 dwar il-Kumpanniji u li jkollha l-awtorizzazzjoni ta' l-Awtorità Kompetenti biex taġixxi bhala uditur mahruġa lilha taħt l-Att ta' l-1998 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-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw safejn ikunu sostitwiti b'dawk l-arranġamenti.

(12) Jekk, fil-kariga tiegħu bhala uditur ta' kumpannija iskritta jew bhala riżultat ta' talba diretta mill-Awtorità Kompetenti taħt 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-*broking* 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) Bla hsara għad-dispożizzjonijiet tas-subartikolu (10) ta' dan l-artikolu, sa fejn id-dispożizzjonijiet ta' dan l-artikolu huma inkonsistenti mad-dispożizzjonijiet ta' l-Att dwar il-Kumpanniji, id-dispożizzjonijiet ta' dan l-artikolu għandhom jipprevalu u d-dispożizzjonijiet ta' l-imsemmi Att ma għandhomx, sa fejn ikunu inkonsistenti, japplikaw għal kumpannija iskritta.

28. Ebda dmir (inkluż id-dmir tas-sigriet professjonali) li għalih -

Komunikazzjoni
mill-udituri eċċ
ma' l-Awtorità
Kompetenti.

(a) uditur ta' kumpannija iskritta jista' jkun sugġett, ma għandu 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 bhala uditur ta' dik il-kumpannija u li tkun rilevanti għal xi funzjoni ta' l-Awtorità Kompetenti taht id-dispożizzjonijiet ta' dan l-Att jew li tkun meħtieġa li tkun komunikata bis-saħħa ta' dan l-Att;

(b) persuna mahtura biex tagħmel rapport taht xi dispożizzjoni ta' dan l-Att tista' tkun sugġetta, ma għandu 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.

REGISTRAZZJONI U ISKRIZZJONI TA' SOTTO-AĠENTI FL-ASSIGURAZZJONI

29. (1) Kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala sotto-aġent fl-assigurazzjoni għandha tistabbilixxi u żżomm registru ta' persuni li jahdmu bhala sotto-aġenti fl-assigurazzjoni, f'dan l-Att imsejjah "ir-Registru ta' Kumpannija għal Sotto-aġenti", li jkun fih l-ismijiet, l-indirizzi, il-klassi jew klassijiet ta' kummerċ fit-tul jew il-grupp jew gruppi ta' klassijiet ta' kummerċ generali li jkun se jitmexxa minn dawk il-persuni skond il-hatra rispettiva ta' sotto-aġenzija u dawk il-partikolaritajiet l-oħra li l-Awtorità Kompetenti tista' tistabbilixxi, minn żmien għal żmien, b'Direttiva 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-registri ta'
kumpanniji għal
sotto-aġenti
fl-assigurazzjoni.

(2) Bla hsara għad-dispożizzjonijiet 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 sotto-aġent fl-assigurazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' dik il-kumpannija.

Kwalifiki għal
registrazzjoni.

30. (1) Persuna jkollha l-jedd li tkun registrata minn kumpannija awtorizzata fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija jekk il-kumpannija tkun sodisfatta li dik il-persuna tkun xierqa u idoneja li tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni.

(2) Persuna ma jkollhiex jedd tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni bis-sahha tar-registrazzjoni tagħha taht dan l-artikolu sakemm u mhux qabel ma tkun iskritta mill-Awtorità Kompetenti fil-Lista ta' Sotto-aġenti taht l-artikolu 33 ta' dan l-Att.

Lista ta' persuni
li jmexxu attivitajiet
ta' sotto-aġenziji
ta' l-assigurazzjoni.

31. (1) L-Awtorità Kompetenti għandha tistabbilixxi u żżomm lista ta' persuni li jmexxu attivitajiet ta' sotto-aġenzija fl-assigurazzjoni, f'dan l-Att imsejha "il-Lista ta' Sotto-aġenti", li jkun fiha l-ismijiet ta' dawk il-persuni, l-ismijiet ta' kumpanniji awtorizzati li jaħtru u jirreġistraw lil dawk il-persuni bhala sotto-aġenti fl-assigurazzjoni, il-klassi jew klassijiet ta' kummerċ fit-tul jew il-grupp jew gruppi ta' klassijiet ta' kummerċ ġenerali li jkunu se jitmexxew minn dawk il-persuni taht il-hatra rispettiva tagħhom ta' sotto-aġenzija u dawk il-partikolaritajiet l-oħra li l-Awtorità Kompetenti tista' tistabbilixxi, minn żmien għal żmien, b'Direttiva 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' Sotto-aġenti ta' kull persuna registrata minnha bhala sotto-aġent fl-assigurazzjoni fir-Registru ta' Kumpanniji għal Sotto-aġenti taht l-artikolu 33 ta' dan l-Att.

(3) Mal-kisba mill-Awtorità Kompetenti ta' xi ċertifikat ta' iskrizzjoni taht l-artikolu 33 ta' dan l-Att, kumpannija awtorizzata għandha tagħti lill-persuna li f'isimha jinhareg iċ-ċertifikat ta' iskrizzjoni ċ-ċertifikat mogħti lill-kumpannija mill-Awtorità Kompetenti jew kopja uffiċjali tiegħu.

(4) Meta persuna iskritta kif intqal qabel tmexxi attivitajiet ta' sotto-aġenzija 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 mahruġ mill-Awtorità Kompetenti taht dan l-artikolu jew kopja uffiċjali tiegħu.

32. Ebda persuna ma ghandha taġixxi bhala sotto-aġent fl-assigurazzjoni u tmexxi, jew tipprova tmexxi, f'Malta attivitajiet ta' sotto-aġenzija fl-assigurazzjoni kemm-il darba dik il-persuna ma tkunx mahtura, registrata u iskritta skond id-dispożizzjonijiet ta' dan l-Att.

Restrizzjoni ta' persuni biex imexxu attivitajiet ta' sotto-aġenti fl-assigurazzjoni.

33. (1) Bla hsara ghad-dispożizzjonijiet ta' dan l-Att, kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala sotto-aġent fl-assigurazzjoni ghandha, taht dan l-artikolu, tahtar u tirreġistra fir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija u taghmel l-iskrizzjoni ma' l-Awtorità Kompetenti fil-Lista ta' Sotto-aġenti, ta' persuna jew persuni biex jaġixxu f'isimha bhala sotto-aġenti fl-assigurazzjoni u biex imexxu f'Malta attivitajiet ta' sotto-aġenzija 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 generali speçifikati fil-hatriet tas-sotto-aġenzija rispettivi; u, meta persuna ma tkunx individwu, dik il-persuna ghandha hi nnifisha jkollha individwu li jissodisfa l-htigiet tas-subartikolu (1) ta' artikolu 30 ta' dan l-Att:

Hatra, registrazzjoni u iskrizzjoni ta' sotto-aġenti fl-assigurazzjoni.

Izda kumpannija hija projbita milli tahtar u tirreġistra fir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija persuna li tkun –

(a) persuna registrata fir-Registru tal-*Brokers* taht l-artikolu 13 ta' dan l-Att;

(b) kumpannija iskritta fil-Lista tal-*Brokers* taht dak l-artikolu;

(c) kumpannija awtorizzata taht l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni -

(i) biex tmexxi kummerç ta' l-assigurazzjoni;

(ii) biex taġixxi bhala aġent fl-assigurazzjoni;

(iii) biex taġixxi ta' manager fl-assigurazzjoni:

Izda wkoll kumpannija hi projbita milli tahtar xi persuna li taġixxi f'isimha bhala sotto-aġent fl-assigurazzjoni biex tmexxi xi attività ta' sotto-aġenzija 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'Direttiva dwar 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' sotto-aġenzija fl-assigurazzjoni ma tista' titmexxa.

(2) Meta kumpanija awtorizzata tahtar u tirreġistra fir-Registru ta' Kumpanija għal Sotto-aġenti tal-kumpanija persuna li ma tkunx individwu, u dik il-persuna tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni minn post ta' negozju wiehed, jew iktar, dik il-persuna għandha tiżgura li l-attivitajiet ta' sotto-aġenzija fl-assigurazzjoni li hekk jitmexxew minnha minn kull post bħal dak tan-negozju jitmexxew biss minn individwu li jissodisfa l-htigiet tas-subartikolu (1) ta' l-artikolu 30 ta' dan l-Att.

(3) Bla hsara għas-subartikoli (4) sa (6) ta' dan l-artikolu persuna, barra minn persuna msemmija fl-ewwel proviso għas-subartikolu (1) ta' dan l-artikolu, tista' tipprova u tikseb taht dan l-artikolu hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' xi kumpanija awtorizzata, biex tmexxi f'isem dik il-kumpanija attivitajiet ta' sotto-aġenzija fl-assigurazzjoni.

(4) Persuna li tkun tixtieq tikseb hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' kumpanija awtorizzata biex tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni –

(a) dwar kummerċ fit-tul, tista' tikseb hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' mhux iżjed minn żewġ kumpaniji awtorizzati li jmexxu kummerċ fit-tul;

(b) dwar kummerċ ġenerali, tista' tikseb hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' mhux iżjed minn żewġ kumpaniji awtorizzati li jmexxu kummerċ ġenerali.

(5) Meta persuna tkun tixtieq tikseb hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' iktar minn kumpanija wahda awtorizzata li tmexxi kummerċ fit-tul, u meta xi klassi ta' kummerċ fit-tul li jitmexxa mill-kumpaniji konċernati jkun ta' l-istess xorta, dik il-persuna għandha, dwar dik il-klassi ta' kummerċ, tipprova u tikseb hatra u registrazzjoni biex tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni dwar dik ix-xorta ta' kummerċ biss fir-Registru ta' Kumpanija għal Sotto-aġenti ta' wahda mill-kumpaniji konċernati.

(6) Meta persuna tkun tixtieq tikseb hatra u registrazzjoni fir-Registru ta' Kumpanija għal Sotto-aġenti ta' iktar minn kumpanija wahda awtorizzata li tmexxi kummerċ ġenerali, u meta xi klassi, jew grupp ta' klassijiet, ta' kummerċ ġenerali li jitmexxa mill-kumpaniji 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 registrazzjoni biex tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni

dwar dik il-klassi, jew grupp ta' klassijiet, ta' kummerċ biss fir-Registru ta' Kumpannija ghal Sotto-aġenti ta' wahda mill-kumpanniji konċernati.

(7) Ebda persuna li tkun impjegat ta' kumpannija awtorizzata ma ghandha, minhabba biss il-fatt li tkun impjegat mal-kumpannija, tehtieg' registrazzjoni fir-Registru ta' Kumpannija ghal Sotto-aġenti taht dan l-artikolu hlief fejn dik il-persuna tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni f'isem il-kumpannija f'post jew f'postijiet li ma jkunux post jew postijiet tan-negozju tal-kumpannija.

(8) Meta l-Awtorità Kompetenti tilqa' applikazzjoni ghall-iskrizzjoni taht dan l-artikolu, hija ghandha tohrog' lill-applikant konċernat ċertifikat ta' iskrizzjoni fl-ghamla u bil-mod li tqis li jkun xieraq hekk li jkun prova tal-persuna registrata fir-Registru ta' Kumpannija ghal Sotto-aġenti ta' l-applikant fil-Lista ta' Sotto-aġenti.

(9) Bla hsara ghad-dispożizzjonijiet ta' dan l-Att, l-Awtorità Kompetenti tista' tissoġġetta l-iskrizzjoni li tkun saret taht dan l-artikolu ghal dawk il-kundizzjonijiet li tista' minn żmien ghal żmien tqis li jkunu xierqa li timponi.

(10) Kumpannija awtorizzata tkun f'kull żmien responsabbli ghal kull ghemil jew nuqqas ta' ghemil tas-sotto-aġenti fl-assigurazzjoni registrati taghha kemm-il darba dak l-ghemil jew nuqqas ikun ghemil jew nuqqas li ghandu x'jaqsam ma' kuntratt ta' assicurazzjoni mahruġ mill-kumpannija jew offrut f'isimha permezz tas-servizzi ta' dawk is-sotto-aġenti fl-assigurazzjoni. Ghall-finijiet ta' dan is-subartikolu, kull referenza ghal sotto-aġenti fl-assigurazzjoni registrati ghandha tinkludi referenza ghal sotto-aġenti fl-assigurazzjoni registrati kemm passati kif ukoll prezenti.

(11) Minkejja kull dispożizzjoni ohra ta' dan l-Att, ghall-finijiet ta' dan l-artikolu, "kumpannija awtorizzata" m'ghandhiex tinkludi xi membru ta' Korp ta' l-Assigurazzjoni Rikonoxxut li jmexxi kummerċ ta' l-assigurazzjoni f'Malta biss ma' kumpannija iskritta.

34. Bla hsara ghad-dispożizzjonijiet ta' l-artikolu 35 ta' dan l-Att u ghall-pattijiet u kondizzjonijiet ta' hatra ta' sotto-aġenzija fl-assigurazzjoni rilevanti, f'kull żmien u ghal kull raġuni tkun li tkun –

Thassar ta' ismijiet mir-registri ta' kumpanniji ghal sotto-aġenti.

(a) kumpannija awtorizzata tista' thassar mir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija l-isem ta' persuna li tkun registrata fir-Registru tal-kumpannija;

(b) persuna registrata fir-Registru ta' Kumpannija ghal Sotto-aġent ta' kumpannija awtorizzata tista' tapplika bil-miktub

lill-kumpannija konċernata u titlob lill-kumpannija li thassarlu ismu mir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija.

Thassir ta' ismijiet mir-registri ta' kumpanniji ghal sotto-aġenti.

35. (1) Meta kumpannija awtorizzata tagħzel li thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija, il-kumpannija għandha minnufih tavża bil-miktub lill-persuna konċernata u lill-Awtorità Kompetenti fejn tispeċifika d-data li fiha tagħzel li thassar l-isem ta' dik il-persuna mir-Registru.

(2) Meta kumpannija awtorizzata thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija minhabba li l-persuna ma tkunx xierqa jew idoneja jew minhabba li l-persuna tkun aġixxiet b'mod frodulent, jew b'dizonestà, jew b'dak il-mod li tintilef fiha l-fiduċja, il-kumpannija għandha tavża bil-miktub lill-Awtorità Kompetenti bir-raġunijiet għaliex għamlet hekk.

(3) Malli tirċievi avviż minghand kumpannija awtorizzata li dik il-kumpannija tkun għazlet li thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-aġenti tal-kumpannija, l-Awtorità Kompetenti għandha:

(a) jekk it-thassir ta' dak l-isem mir-Registru jkun minhabba raġunijiet li ma jkunux dawk speċifikati fis-subartikolu (2) ta' dan l-artikolu, kemm jista' jkun malajr, tikkonferma bil-miktub lill-kumpannija konċernata li isem dik il-persuna, safejn jirreferi ghal dik il-kumpannija, għandu jthassar mil-Lista ta' Sotto-aġenti mid-data speċifikata fl-avviż tal-kumpannija;

(b) jekk it-thassir ta' dak l-isem mir-Registru jkun minhabba raġunijiet speċifikati fis-subartikolu (2) ta' dan l-artikolu, qabel ma thassar isem dik il-persuna mil-Lista ta' Sotto-aġenti, minnufih, tagħti lill-persuna konċernata avviż bil-miktub li jkun jagħti r-raġunijiet ghal dak l-għemil, u d-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 17 ta' dan l-Att għandhom ikunu *mutatis mutandis* japplikaw ghal avviż mogħti taht dan l-artikolu.

(4) Bla hsara ghal kull azzjoni li l-Awtorità Kompetenti jidhriha xierqa tiehu taht dan l-Att jew taht xi liġi oħra, meta l-Awtorità Kompetenti thassar l-isem ta' persuna mil-Lista ta' Sotto-aġenti ghal raġunijiet speċifikati fis-subartikolu (2) ta' dan l-artikolu, l-Awtorità Kompetenti tista' tagħti pubbliċita għat-thassir ta' dak l-isem mil-Lista ta' Sotto-aġenti, u –

(a) jekk isem dik il-persuna ikun registrat fir-Registru ta' Kumpannija ghal Sotto-aġenti ta' xi kumpannija oħra, l-Awtorità Kompetenti għandha wkoll minnufih tavża bil-miktub lil dik il-

3110 kumpannija l-oħra u tordnalha li thassar l-isem ta' dik il-persuna
450 mir-Registru ta' Kumpannija għal Sotto-aġenti 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' Sotto-aġenti, l-Awtorità Kompetenti għandha tippubblika avviż li jagħti pubbliċità għal dak it-thassir b'mod li jidhirlha xieraq għall-inqas f'zewġ gazzetti lokali li johorġu kuljum li minnhom waħda tiġi pubblikata bil-Malti u l-oħra bl-Ingliż; u t-test ta' l-avviż għandu jkun bil-Malti fil-gazzetta bil-Malti u bl-Ingliż fil-gazzetta bl-Ingliż.

(5) L-Awtorità Kompetenti jkollha s-setgħa tordna li l-ispejjeż kollha li jsiru bil-pubblikazzjoni ta' avviż 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 tircievi applikazzjoni bil-miktub minghand persuna registrata fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija li tkun qiegħda teħtieġ lill-kumpannija li thassar isem dik il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija, il-kumpannija għandha minghajr ebda dewmien thassar isem dik il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti 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' Kumpannija għal Sotto-aġenti tal-kumpannija, il-persuna konċernata tista' tirreferi l-kwistjoni lill-Awtorità Kompetenti u l-Awtorità Kompetenti għandha tohroġ 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' Kumpannija għal Sotto-aġenti tal-kumpannija.

(8) Malli jingħata avviż mill-Awtorità Kompetenti lil kumpannija awtorizzata li isem persuna registrata fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija jkun thassar mil-Lista ta' Sotto-aġenti, il-kumpannija konċernata għandha minnufih tagħti lura lill-Awtorità Kompetenti iċ-ċertifikat ta' iskrizzjoni dwar dik il-persuna, u kull kopja uffiċjali li jkollha ta' dak iċ-ċertifikat.

Tharis ta' l-interess
pubbliku jew
interess
iehor.

36. Minkejja kull dispożizzjoni 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' Sotto-
aġenti;

(b) li thassar l-isem ta' persuna mil-Lista ta' Sotto-aġenti:

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

Restituzzjoni ta'
isem imhassar
mil-Lista ta'
Sotto-aġenti.

37. Meta skond l-artikolu 35 ta' dan l-Att l-isem ta' persuna jkun thassar mil-Lista tas-Sotto-aġenti –

(a) għal raġunijiet li jinsabu fis-subartikolu (2) ta' dak l-artikolu, l-isem ta' dik il-persuna għandu, ma' l-applikazzjoni ta' kumpannija awtorizzata, jerga' jkun iskritt fil-Lista tas-Sotto-aġenti biss fuq ordni tat-Tribunal jew 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 iskritt fil-Lista tas-Sotto-aġenti.

DISPOŻIZZJONIJIET ĠENERALI

Kooperazzjoni
fi dmirijiet ta'
sorveljanza u
skambju ta'
informazzjoni.

38. (1) Fuq il-bażi ta' ftehim internazzjonali, jew fuq ftehim ta' reċiproċità, l-Awtorità Kompetenti tista' taqsam l-informazzjoni u tikkoopera fid-dmirijiet ta' sorveljanza tagħha ma' awtoritajiet regolatorji barranin oħra –

(a) fil-każ ta' kumpannija iskritta, jew fergħa ta' kumpannija iskritta, skond il-każ, li tkun qed tmexxi kummerċ ta' *broking* fl-assigurazzjoni f'Malta jew minn Malta u li s-sid tagħha jkun għal kollox jew f'parti persuna barranija; jew

(b) fil-każ ta' kumpannija iskritta li tkun kumpannija lokali, li tkun qed tmexxi kummerċ ta' *broking* fl-assigurazzjoni f'pajjiż jew minn pajjiż barra minn Malta li s-sid tagħha jkun għal kollox jew f'parti residenti Malti.

(2) Ghandu jkun hemm laqghat li jsiru bejn kumpannija awtorizzata u l-Awtorità Kompetenti jew bejn kumpannija iskritta, l-uditur approvat taghha u l-Awtorità Kompetenti fuq bażi bilaterali jew bażi trilaterali skond kif ikunu jiġġustifikaw iċ-ċirkostanzi. Dawn il-laqghat jistghu jiġu msejha minn kwalunkwe waħda mill-partijiet ikkonċernati iżda ghandhom dejjem ikunu preseduti mill-Awtorità Kompetenti.

39. (1) Ebda haġa f'dan l-Att ma tawtorizza lill-Awtorità Kompetenti biex tinvestiga jew iġġieghel li ssir investigazzjoni f'kumpannija iskritta fl-affarijiet ta' klijent individwali ta' kumpannija iskritta hliet sabiex jiġi assigurat li jkun hemm tharis tad-dispożizzjonijiet ta' dan l-Att. Konfidenzjalità.

(2) Ebda persuna, inklużi uffiċjali jew aġenti ta' l-imghoddi jew tal-preżent ta' kumpannija iskritta, ma ghandha tikxef xi informazzjoni dwar l-affarijiet ta' kumpannija iskritta jew ta' klijent ta' kumpannija iskritta li hija tkun kisbet fil-qadi tad-dmirijiet taghha jew fl-eżerċizzju tal-funzjonijiet taghha skond dan l-Att hliet -

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

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

(c) meta tkun mehtieġa biex taghmel hekk minn xi qorti jew skond xi dispożizzjoni ta' xi liġi.

(3) F'dan l-artikolu, l-espressjoni "aġenti", dwar kumpannija iskritta, tfisser u tinkludi l-bankiera u l-uditur tal-kumpannija.

(4) Meta uffiċjal jew impjegat ta' kumpannija iskritta, jew persuna registrata 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 obligata timxi skond ir-regolamenti mahruġa taħt l-Att ta' l-1994 kontra *Money Laundering* u skond linji ta' gwida magħmula mill-Awtorità Kompetenti. It-tharis tad-dispożizzjonijiet ta' dan is-subartikolu ma jikkostitwix ksur ta' konfidenzjalità.

40. (1) Ir-Reġistru tal-*Brokers*, il-Lista tal-*Brokers* u l-Lista ta' Sotto-aġenti ghandhom ikunu miftuhin biex jispezzjonahom il-pubbliku, mingħajr hlas, fl-uffiċċju ta' l-Awtorità Kompetenti fil-hinijiet kollha matul il-hinijiet normali tax-xogħol ta' l-Awtorità. Spezzjoni tar-
reġistri
u tal-listi.

(2) Kull persuna tista', mal-hlas ta' dak id-dritt li jista' jigi preskritt, tikseb minghand l-Awtorità Kompetenti estratti mir-Registru tal-*Brokers*, mil-Lista tal-*Brokers* u mil-Lista tas-Sotto-agenti u kopji ufficjali ta' certifikati ta' registrazzjoni jew iskrizzjoni.

(3) Ir-Registru ta' Kumpannija ghal Sotto-agenti ta' kull kumpannija ghandu jkun miftuh biex jispezzjonah il-pubbliku, minghajr hlas, fl-ufficju principali tal-kumpannija awtorizzata koncernata matul il-hinjiet normali tax-xoghol tal-kumpannija.

Użu tal-kelma
"assigurazzjoni".

41. (1) Bla hsara ghad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, hlief bil-permess bil-miktub ta' l-Awtorità Kompetenti, ebda persuna barra minn –

(a) persuna registrata fir-Registru tal-*Brokers* taht l-artikolu 13 ta' dan l-Att; jew

(b) kumpannija iskritta fil-Lista tal-*Brokers* taht dak l-artikolu; jew

(c) kumpannija awtorizzata taht l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni; jew

(d) persuna li jkollha kwalifiki ta' assicurazzjoni minn istitut ta' reputazzjoni maghruf ghal dak l-ghan mill-Awtorità Kompetenti; jew

(e) istitut ta' reputazzjoni illi jipprovi tagħlim fl-istudji dwar il-kummerç ta' l-assigurazzjoni u hu maghruf ghal dan il-ghan mill-Awtorità Kompetenti; jew

(f) persuna preskritta b'regolamenti maghmula taht dan l-Att,

ma ghandha tuża l-kelma "assigurazzjoni" bhala parti minn isimha jew bhala d-deskrizzjoni jew titlu 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 intqal qabel tista' tuża l-isem użat fil-pajjiz 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'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-fini ta' dan l-artikolu,

tistabbilixxi l-kwalifiki u l-esperjenza fil-kummerċ ta' l-assigurazzjoni li persuni, barra mill-persuni msemmija fis-subartikoli ta' qabel ta' dan l-artikolu, jehtieg li jkollhom biex, b'applikazzjoni lill-Awtorità Kompetenti, jkunu jistghu jinghataw permess taht dan l-artikolu sabiex jużaw il-kelma "assigurazzjoni" bhala parti minn isimhom jew bhala d-deskrizzjoni jew titlu tagħhom.

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

42. Avviż jew dokument iehor li ghandu jinghata jew ikun notifikat taht dan l-Att jew xi regoli jew regolamenti magħmula bis-sahha tieghu ghandu jitqies li nghata jew gie notifikat b'mod xieraq lil persuna jekk – Notifika ta' avvizi, eċċ.

(a) ikun konsenjat lilha; jew

(b) ikun thalla fl-indirizz moghti minnha lill-Awtorità Kompetenti, jew fl-indirizz l-ahhar magħruf tagħha; jew

(c) ikun intbagħtilha bil-posta jew bil-*fax* f'xi wiehed mill-indirizzi hawn fuq imsemmija; jew

(d) fil-każ ta' soċjetà kummerċjali registrata f'Malta, jkun konsenjat, intbagħat bil-posta jew bit-*telefax*, jew thalla fl-uffiċċju registrat, jew fl-uffiċċju registrat l-ahhar magħruf, ta' dik is-soċjetà kummerċjali; jew

(e) fil-każ ta' xi korp iehor ta' persuni, sew jekk korporat jew mhux korporat, ikun inghata jew gie notifikat b'xi mod hawn fuq imsemmi lil direttur, uffiċjal, skrivan jew lir-rappreżentant ta' dak il-korp.

43. (1) Bla hsara għas-subartikoli li ġejjin ta' dan l-artikolu, kumpannija li tkun iskritta taht l-artikolu 13 ta' dan l-Att tista' tagħmel jew tikkuntratta kull *underwriting agreement* dwar klassijiet ta' kummerċ ġenerali ma' kull kumpannija awtorizzata. Underwriting agreements.

(2) Ebda kumpannija iskritta kif imsemmi qabel ma ghandha tagħmel jew tikkuntratta xi *underwriting agreement* kemm-il darba, dwar

dak l-*underwriting agreement*, il-kumpanija ma' tharisx, jew ma tissodisfax, dawk il-htigiet li l-Awtorità Kompetenti, tista' permezz ta' Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu tistabbilixxi.

(3) Kumpanija iskritta kif imsemmi qabel għandha tirreġistra għand l-Awtorità Kompetenti kull *underwriting agreement* maghmul jew ikkuntrattat taht dan l-artikolu fl-għamla u bil-mod li l-Awtorità Kompetenti tista', permezz tad-Direttiva dwar Intermedjarji fl-Assigurazzjoni, tistabbilixxi.

(4) Ebda kummerç ta' assigurazzjoni ma għandu jigi aċċettat taht xi *underwriting agreement* kemm-il darba l-*underwriting agreement* ma jkunx gie debitament reġistrat kif imsemmi qabel.

(5) L-Awtorità Kompetenti għandha tiddeċiedi dwar applikazzjoni għal reġistrazzjoni ta' xi *underwriting agreement* taht dan l-artikolu fi żmien xahar minn meta tircievi l-informazzjoni mehtieġa li tinghata skond id-Direttiva dwar Intermedjarji fl-Assigurazzjoni; u jekk l-Awtorità turrifjuta li tirreġistra l-*agreement* hija għandha tgharraf lill-applikant bil-miktub ir-raġunijiet għar-rifjut.

(6) Bla hsara għad-dispożizzjonijiet ta' dan l-Att, l-Awtorità Kompetenti tista' tissoġġetta r-reġistrazzjoni ta' kull *underwriting agreement* maghmul taht dan l-artikolu għal dawk il-kondizzjonijiet li tista' minn żmien għal żmien tqis xierqa li timponi.

(7) Għall-ghanijiet ta' dan l-artikolu "*underwriting agreement*", dwar il-kummerç ta' l-assigurazzjoni, tfisser ftehim bejn kumpanija awtorizzata u kumpanija iskritta taht l-artikolu 13 ta' dan l-Att li bih il-kumpanija iskritta tista', skond il-provedimenti tieghu, taċċetta riskji sitwati f'Malta f'isem il-kumpanija awtorizzata; u, f'dan il-kuntest, kull ftehim ieħor, b'kull isem li jista' jisejjah bih, li jkollu ghanijiet u finijiet simili għal *underwriting agreement*, għandu jitqies għall-finijiet ta' dan l-artikolu li jkun *underwriting agreement*.

Tibdil fid-
dokumentazzjoni.

44. (1) Kull kumpanija iskritta għandha tavża bil-miktub lill-Awtorità Kompetenti b'kull tibdil materjali fid-dokumentazzjoni provduta jew mehtieġa li tkun provduta b'dan l-Att jew tahtu jew b'xi regoli jew regolamenti maghmula bis-sahha tieghu jew b'xi Direttiva dwar Intermedjarji fl-Assigurazzjoni, malli ssir taf b'dak it-tibdil.

(2) Bla hsara għall-artikolu 49 ta' dan l-Att safejn jirreferi għall-artikolu 38 ta' l-Att ta' l-1998 dwar il-Kummerç ta' l-Assigurazzjoni, kull kumpanija iskritta li tkun kumpanija lokali għandha, qabel ma taghmel xi zieda jew tibdil fil-*memorandum* jew fl-istatut ta'

assoċjazzjoni jew f'xi att ieħor li jikkostitwixxi l-kumpannija tissottometti bil-miktub lill-Awtorità Kompetenti partikolaritajiet taż-żieda jew tibdil propost għall-kunsens tagħha bil-quddiem; u ebda żieda jew tibdil bħal dak ma għandu jsir jew jiġi registrat jew jibda jsehh, sew jekk ikun registrat jew le, kemm-il darba u sakemm l-Awtorità Kompetenti ma tkunx tat il-kunsens tagħha bil-miktub.

45. (1) F'dan l-Att, "it-Tribunal għal Servizzi Finanzjarji" u "it-Tribunal" iffissru it-Tribunal imwaqqaf skond l-artikolu 10 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju: Appelli.
Att XV
ta' l-1994

Iżda għal finijiet ta' proċeduri li johorġu minn dan l-Att il-proviso għas-subartikolu (1) ta' l-artikolu 57 ta' l-Att ta' 1998 dwar il-Kummerċ ta' l-Assigurazzjoni għandu japplika:

Iżda ukoll li, għall-finijiet ta' dawk il-proċeduri, id-dispożizzjonijiet ta' l-artikolu 10 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju għandhom, hliet sa fejn huma inkompatibbli mad-dispożizzjonijiet ta' dan l-artikolu, japplikaw.

(2) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, kull persuna jew kumpannija li, thossha aggravata b' deċiżjoni ta' l-Awtorità Kompetenti -

(a) li tirrifjuta li tirregistra jew tiskrivi applikant taht l-artikolu 13 jew 36 ta' dan l-Att;

(b) li timponi xi kondizzjoni fuq, jew sussegwenti għal, registrazzjoni u iskrizzjoni taht l-artikolu 13 ta' dan l-Att;

(ċ) li thassar l-isem ta' persuna mir-Registru tal-*Brokers* jew l-isem ta' kumpannija mil-Lista tal-*Brokers* taht l-artikolu 16 ta' dan l-Att;

(d) li tirrifjuta li tirrestitwixxi l-isem ta' persuna fir-Registru tal-*Brokers* jew l-isem ta' kumpannija fil-Lista tal-*Brokers* taht is-subartikolu (2) ta' l-artikolu 18 ta' dan l-Att;

(e) li thassar l-isem ta' persuna mil-Lista ta' Sotto-aġenti skond il-paragrafu (b) tas-subartikolu (3) ta' l-artikolu 35 ta' dan l-Att;

(f) li tehtieg kumpannija awtorizzata li thassar l-isem ta' persuna mir-Registru ta' Kumpannija għal Sotto-aġenti ta' xi kumpannija taht l-artikolu 36 ta' dan l-Att;

(g) li tirrifjuta li tirreġistra xi *underwriting agreement* taht l-artikolu 43 ta' dan l-Att;

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

tista' tappella kontra d-deċiżjoni lit-Tribunal għal Servizzi Finanzjarji 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 waħda minn dawn li ġejjin-

(a) l-Awtorità Kompetenti tkun applikat hażin xi waħda mid-dispożizzjonijiet 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, ladarba 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 fil-paragrafu (h) tas-subartikolu (4) ta' dan l-artikolu.

Esklużjoni ta' responsabbiltà.

46. 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 xi regoli jew regolamenti magħmula bis-saħha tiegħu 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 regoli jew regolamenti kif intqal qabel, kemm-il darba l-ghemil jew in-nuqqas ma jintwerix li jkun sar jew naqas milli jsir, skond il-każ, b'*mala fede*.

Reati.

47. (1) Kull persuna –

(a) li tikser jew tonqos li thares xi dispożizzjonijiet ta' dan l-Att, jew ta' l-artikolu 29, 30 jew 38 ta' l-Att ta' l-1998 dwar il-Kummerċ ta' l-Assigurazzjoni kif applikabbli skond l-artikolu 49 ta' dan l-Att;

(b) li tikser jew tonqos li thares xi regoli jew regolamenti maghmula taht dan l-Att; barra minn regoli jew regolamenti li dwarhom ikunu preskritti penalitajiet amministrattivi taht il-paragrafu (d) fis-subartikolu (3) ta' l-artikolu 3 ta' dan l-Att;

(c) li tikser jew tonqos li thares xi Direttiva dwar Intermedjarji fl-Assigurazzjoni jew xi kondizzjoni ta' registrazzjoni jew iskrizzjoni;

(d) li tonqos li thares xi ordni legittimu jew hteiga legittima ta' l-Awtorità Kompetenti;

(e) li tonqos li thares xi ordni jew hteiga tat-Tribunal tas-Servizzi Finanzjarji;

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

(g) li minghajr raguni xierqa tibdel, izzomm, tahbi, tiddistruggi jew tirrifjuta li tipproduci xi dokument li hu legittimament mehtieg li jigi provdut minn xi persuna taht dan l-Att jew xi regoli jew regolamenti maghmula bis-sahha tieghu,

tkun hatja ta' reat.

(2) Kull persuna li xjentement tipparteçipa fi, jew tipprokura jew tghin jew thajjar l-ghemil ta' reat taht is-subartikolu (1) ta' dan l-artikolu tkun hatja ta' reat u tista' tehel l-istess pieni bhall-awtur tar-reat.

(3) Il-Ministru ghandu jaghmel regolamenti taht dan l-artikolu li jippreskrivu penalitajiet ghal reati kontra dan l-Att, u dawk ir-regolamenti jistghu –

(a) jippreskrivu penalitajiet li jistghu jigu nfurzati fil-qrati ta' Malta;

(b) jippreskrivu penalitajiet differenti ghal kontravvenzjonijiet ta' dispozizzjonijiet differenti ta' dan l-Att;

(ċ) jippreskrivu penalitajiet kalkolati skond kemm idum l-ghemil tar-reat,

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

Pieni.

48. (1) Il-penalitajiet preskritti b'regolamenti maghmula taht l-artikolu 47 ta' dan l-Att –

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

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

(ċ) fil-każ ta' reat kontinwat, ma ghandhomx jipprovdu ghal multa ta' inqas minn hamsin lira Maltija jew iktar minn mitt lira Maltija ghal kull jum li matulu r-reat ikompli.

(2) Ebda proċedimenti ghal reat taht dan l-Att jew xi regolament maghmul tahtu, hlief ghal infrazzjonijiet li ghalihom japplika l-paragrafu (d) tas-subartikolu (3) ta' l-artikolu 3 ta' dan l-Att, ma jistghu jinbdew minghajr il-kunsens ta' l-Avukat Ġenerali.

(3) Id-dispożizzjonijiet ta' dan l-Att m'ghandhomx jolqtu xi proċedimenti kriminali li jistghu jittiehdu taht xi liġi ohra.

Applikazzjoni ta' ċerti artikoli ta' l-Att ta' l-1998 dwar il-Kummerċ ta' l-Assigurazzjoni ghal kumpanniji iskritti.

49. (1) L-artikoli 29, 30, 31 u 38 ta' l-Att ta' l-1998 dwar il-Kummerċ ta' l-Assigurazzjoni (f'dan l-artikolu msejjaħ "l-Att") ghandhom japplikaw dwar kumpannija iskritta fil-Lista tal-*Brokers* sugġetti ghad-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) L-artikoli 29, 30, 31 u 38 ta' l-Att ghandhom japplikaw daqslikieku –

(a) ir-riferenza ghal "kumpannija awtorizzata" kienet riferenza ghal "kumpannija iskritta";

(b) ir-riferenza ghal "Awtorità Kompetenti" kienet riferenza ghall-"Awtorità Kompetenti" li qieghda taqdi l-funzjonijiet ta' l-Awtorità Kompetenti taht dan l-Att;

(ċ) ir-riferenza għal “kummerċ ta’ l-assigurazzjoni” kienet riferenza għal “kummerċ ta’ *broking* fl-assigurazzjoni”;

(d) ir-riferenza għal “Direttiva dwar l-Assigurazzjoni” kienet riferenza għal “Direttiva dwar Intermedjarji fl-Assigurazzjoni”;

(e) ir-riferenza għal “kumpannija li l-uffiċċju prinċipali tagħha qiegħed f’pajjiż barra minn Malta” kienet riferenza għal “kumpannija barranija”.

50. L-Att dwar il-Kontroll fuq il-Kambju ma għandux japplika għal kummerċ ta’ *broking* fl-assigurazzjoni li jitmexxa minn kumpannija iskritta ma’ klijent li hu persuna mhux residenti f’ Malta għall-finijiet ta’ l-imsemmi Att.

Applikazzjoni ta’ l-Att dwar il-Kontroll fuq il-Kambju. Kap. 233.

51. (1) Kull liċenzja mahruġa jew imġedda jew azzjoni oħra tkun li tkun li tkun ittiegħdet jew inbdiet taht l-Att ta’ l-1981 dwar l-Impriza ta’ l-Assigurazzjoni (f’dan l-artikolu msejjah “l-Att”) qabel ma thassar bl-Att ta’ l-1998 dwar il-Kummerċ ta’ l-Assigurazzjoni safejn japplika għal *brokers* fl-assigurazzjoni u bejjiegha ta’ assigurazzjoni, għandhom ikomplu japplikaw u jibqgħu validi, daqslikieku dik il-liċenzja kienet ċertifikat ta’ iskrizzjoni mahruġ jew daqslikieku dik l-azzjoni l-oħra kienet mehuda jew mibdija taht dan l-Att.

Rizervi. Kap. 290.

(2) Kull persuna jew kumpannija li jkollha liċenzja taht l-Att biex taġixxi bhala sensal ta’ assigurazzjoni jew bejjiegh ta’ assigurazzjoni għandha, mhux iktar tard mid-data stabbilita, thares id-dispożizzjonijiet ta’ dan l-Att jew inkella tieqaf milli taġixxi bhala sensal ta’ assigurazzjoni jew bejjiegh ta’ assigurazzjoni, u għandha, sad-data stabbilita jew sakemm thares id-dispożizzjonijiet ta’ dan l-Att, skond liema jiġi l-ewwel, tkompli tkun regolata mid-dispożizzjonijiet ta’ l-Att. Għall-finijiet ta’ dan l-artikolu “id-data stabbilita” tfisser jum li jiġi sitt xhur wara d-data tal-bidu fis-sehħ ta’ dan l-Att.

(3) Meta kumpannija tieqaf milli taġixxi bhala sensal ta’ assigurazzjoni minhabba li dik il-kumpannija ma tharisx, fid-data stabbilita, id-dispożizzjonijiet ta’ dan l-Att, dik il-kumpannija għandha titqies li tkun għamlet applikazzjoni lill-Awtorità Kompetenti taht l-artikolu 25 ta’ dan l-Att fid-data stabbilita biex tieqaf milli tkompli tmexxi l-kummerċ ta’ sensal ta’ assigurazzjoni minn dik id-data u li jkun inhargilha permess mill-Awtorità Kompetenti taht dak l-artikolu fid-data stabbilita biex tieqaf milli tmexxi dak il-kummerċ minn dik id-data u biex tagħmel *servicing* ta’ dak il-kummerċ ukoll minn dik id-

data. L-Awtorità Kompetenti tista' timponi daww il-kondizzjonijiet dwar *is-servicing* ta' dak il-kummerċ skond kif jidhrilha xieraq.

(4) Għall-fini ta' dan l-artikolu, "liċenzja" tinkludi awtorità, permess, approvazzjoni u hatra.

(5) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal kumpanniji *offshore* ta' *broking* fl-assigurazzjoni registrati taħt l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta, sa dak iż-żmien li l-Ministru jista' b'Ordni fil-Gazzetta jistabbilixxi.

S K E D A

(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 ta' l-1998 dwar il-Kummerċ ta' l-Assigurazzjoni.

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
<p align="center">Intermedjarji fl-Assigurazzjoni Indipendenti</p>	<p align="center">Intermedjarji fl-Assigurazzjoni Dipendenti</p>	<p align="center">Attivitajiet ta' Intermedjarji fl-Assigurazzjoni</p>
<p><i>Broker</i> fl-assigurazzjoni</p>		<p>1. Attivitajiet professjonali ta' persuni mnizzlin fl-Ewwel Kolonna ta' din l-Iskeda li, b'libertà assoluta dwar l-ghażla taghhom ta' kumpanniji ta' l-assigurazzjoni legittimi, ilaqqghu flimkien, bil-hsieb ta' assigurazzjoni jew rijassigurazzjoni ta' riskji jew irbijt, persuni li jkunu qed ifittxu assigurazzjoni jew rijassigurazzjoni u kumpanniji ta' l-assigurazzjoni, 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>

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Intermedjarji fl-Assigurazzjoni Indipendenti	Intermedjarji fl-Assigurazzjoni Dipendenti	Attivitajiet ta' Intermedjarji fl-Assigurazzjoni
	Sotto-àgent fl-assigurazzjoni	<p>2. Attivitajiet ta' persuni mnizzlin fit-Tieni Kolonna ta' din l-Iskeda li jagixxu f'isem kumpanniji awtorizzati, fost hwejjeġ ohra jagħmlu xogħol introdutturju, jintroduċu kuntratti ta' assicurazzjoni jew jiġbru <i>premiums</i>, kemm-il darba ebda obbligazzjoni dwar assicurazzjoni lejn jew min-naħa tal-pubbliku ma tingħata bħala parti minn dawk l-attivitajiet.</p>

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 241 ta' l-14 ta' Lulju, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

**INSURANCE BROKERS AND OTHER
INTERMEDIARIES ACT, 1998**

Arrangement of Act

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2. Interpretation

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4. Powers and duties of the Competent Authority

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SCHEDULE

Insurance Intermediaries and Insurance Intermediaries Activities

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

21st July, 1998

ACT No. XVIII of 1998

AN ACT to regulate the registration of insurance brokers and other 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:

PRELIMINARY

1. (1) This Act may be cited as the Insurance Brokers and Other Intermediaries Act, 1998.

Short title
and
commencement.

(2) This Act shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions or different purposes of this Act.

2. (1) In this Act, unless the context otherwise requires -

Interpretation.

“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;

“affiliated insurance” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1998;

“approved auditor” and “auditor” have the meaning assigned to them by subsection (10) of section 27 of this Act;

“authorised company” means a company authorised, or any person deemed authorised, under the Insurance Business Act, 1998 to carry on business of insurance, and includes a person authorised under the said Act to act as an insurance agent of the company or person;

“body corporate” means an entity having a legal personality distinct from that of its members;

“branch” -

(a) in relation to a local company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, means premises of the company, other than its head office, from which the business of insurance broking or the other insurance intermediaries activities as may be prescribed are carried on; and

(b) in relation to a foreign company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, means premises in Malta of the company from which the business of insurance broking or the other insurance intermediaries activities as may be prescribed are carried on by a person fulfilling the requirements of subsection (2) of section 10 of this Act and having authority to act for the company;

“Brokers List” means the list of companies carrying on business as insurance brokers established and maintained under section 7 of this Act;

“Brokers Register” means the insurance brokers register established and maintained under section 5 of this Act;

“business of insurance” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1998;

“business of insurance broking”, in relation to a registered insurance broker or an enrolled company, means the activities listed in paragraph 1 of the Third Column of the Schedule;

“certificate of enrolment” -

(a) in relation to a company carrying on business as insurance broker, means a certificate issued by the Competent Authority under section 14 of this Act to the company evidencing enrolment of that company in the Brokers List; and

(b) in relation to a person registered as an insurance sub-agent in the Sub-agents Company Register of any company, means a certificate issued by the Competent Authority under section 33 of this Act to the company enrolling that person evidencing enrolment of that person in the Sub-agents List;

“certificate of registration”, in relation to a person registered as an insurance broker, means a certificate issued by the Competent Authority under section 14 of this Act to that person evidencing registration of that person 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, 1998; and

(b) in relation to general business, means any of the classes specified in Part I of the Third Schedule to that Act;

“client”, in relation to an enrolled company, means a person who contacts, or is contacted by, an enrolled company with a view to obtaining or giving advice on his insurance requirements or entering into a contract of insurance with an insurance company or for whom the enrolled company has arranged a contract of insurance with an insurance company;

“commitment” and “country of the commitment” have the same meanings as are assigned to them by subsection (1) of section 2 of the Insurance Business Act, 1998;

“company” includes a local company and a foreign company;

“Competent Authority” means the body appointed under subsection (2) of section 3 of the Insurance Business Act, 1998;

“conditions” includes obligations and restrictions;

“contract of insurance” and “contract” have the same meanings as are assigned to them by subsection (1) of section 2 of the Insurance Business Act, 1998;

“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;

“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 subsection (1) of section 10 of this Act;

“enrolled” -

(a) in relation to a company carrying on business as insurance broker, means enrolled in the Brokers List under section 13 of this Act; and

(b) in relation to a person registered as an insurance sub-agent, means enrolled in the Sub-agents List under section 33 of this Act,

and, in each case, “enrolment” shall be construed accordingly;

“financial year” shall be construed in accordance with subsection (4) of section 26 of this Act;

“foreign company” means a company or a partnership *en commandite*, 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;

“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, 1998;

“insurance broker” means a person carrying on business of insurance broking;

“insurance company”, in relation to an enrolled company, means and includes a company, a member of a Recognised Insurance Body or of any other undertaking lawfully carrying on business of insurance;

“insurance intermediary” means a person who, by way of business, or in the course of employment, falls within any of the categories listed in the First or Second Column of the Schedule and includes a person providing services ancillary to other insurance intermediaries activities as may be prescribed;

“insurance intermediaries activities” and “activities” mean any of the activities listed in paragraphs 1 and 2 of the Third Column of the Schedule and includes any other activities as may be prescribed;

“Insurance Intermediaries Directive” means a Directive in respect of insurance intermediaries activities issued by the Competent Authority in virtue of subsection (2) of section 4 of this Act;

“insurance sub-agency activities”, in relation to a person registered as an insurance sub-agent, means activities listed in paragraph 2 of the Third Column of the Schedule;

“insurance sub-agent” means a person carrying out insurance sub-agency activities;

“local company” means a limited liability company formed and registered under the Companies Act, 1995 and includes, subject to subsection (2) of this section, a partnership *en commandite*, the capital of which is divided into shares, formed and registered under the said Act; Act XXV of 1995.

“Minister” means the Minister responsible for finance;

“money laundering” has the same meaning as is assigned to it by the Prevention of Money Laundering Act, 1994; Act XIX of 1994.

“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 Directive made for the purpose of this Act to determine the components which make up the company’s own funds;

“prescribed” means prescribed by rules or 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;

“Recognised Insurance Body” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1998;

“registered” -

(a) in relation to a person registered as an insurance broker under section 13 of this Act, means registered in the Brokers Register; and

(b) in relation to a person registered as an insurance sub-agent under section 33 of this Act, means registered in the Sub-agents Company Register of any one or more companies,

and, in each case, “registration” shall be construed accordingly;

“representative” -

(a) in relation to a company whose head office is in a country outside Malta, other than Lloyd’s or any of its members or a Recognised Insurance Body or any of its members, shall be construed in accordance with section 12 of the Insurance Business Act, 1998;

(b) in relation to Lloyd’s or any of its members or a Recognised Insurance Body or any of its members, shall be construed in accordance with paragraphs 4.1, 4.2 and 4.3 of the First Schedule to that Act;

“risk situated in Malta” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1998;

“Schedule” means the Schedule to this Act;

“Sub-agents List” means the list of insurance sub-agents registered by authorised companies established and maintained under subsection (1) of section 31 of this Act;

“Sub-agents Company Register”, in relation to an authorised company, means the insurance sub-agents company register established and maintained by the company under subsection (1) of section 29 of this Act.

(2) The provisions of this Act shall apply to a partnership *en commandite* 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.

(3) In this Act and in any rules or regulations made thereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.

REGULATORY POWERS

3. (1) It shall be the duty of the Minister to exercise the powers conferred upon him by this Act to ensure compliance by persons registered as insurance brokers, companies enrolled as carrying on business as insurance brokers and persons carrying out other insurance intermediary activities with the provisions of this Act and any rules or regulations made thereunder and with such conditions as may from time to time be specified in the respective certificate of registration or enrolment.

Powers and
duties
of the
Minister.

(2) The Competent Authority appointed under subsection (2) of section 3 of the Insurance Business Act, 1998 shall carry out the functions of the Competent Authority under this Act and perform such other functions as the Minister may consider appropriate in relation to the operation of this Act.

(3) The Minister may, after consultation with the Competent Authority, make rules or regulations as may be required for carrying into effect any of the provisions of this Act and for amending or revoking the Schedule and may amend or revoke such rules or regulations; and, without prejudice to the generality of the foregoing, the Minister may, by such rules or regulations, in particular, make provision in respect of any one or more of the following matters –

(a) the fees and duties to be levied in respect of any matter provided by or under this Act and any rules or regulations made under this section;

(b) the registration and enrolment of persons, other than persons registered and enrolled by virtue of this Act, carrying out

insurance intermediary activities or providing services ancillary to business of insurance as may be prescribed;

(c) any matter relating to or connected with any provision contained in the Schedule;

(d) 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 five 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;

(e) 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 five 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.

(4) The Minister may also by regulations under this section, 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) Rules and regulations made under this Act and any amendment or revocation of such rules and 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 rules or regulations made thereunder comply with the provisions of this Act and of any rules or regulations made thereunder, with Insurance Intermediaries Directives made by the Competent Authority in virtue of this Act and of any rules and regulations made thereunder and with the conditions specified in certificates of registration or enrolment.

(2) The Competent Authority may make Insurance Intermediaries Directives as may be required for carrying into effect any of the provisions of this Act and of any rules and regulations made thereunder. The Competent Authority may amend or revoke such Insurance Intermediaries Directives.

(3) Insurance Intermediaries Directives 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 Authority.

(4) Insurance Intermediaries Directives 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 Directives required to be made under this Act and to the generality of the foregoing, the Competent Authority may, by such Insurance Intermediaries Directives, 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 companies enrolled as carrying on business as insurance brokers and persons carrying out other insurance intermediaries activities 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.

REGISTRATION OR ENROLMENT FOR CARRYING ON BUSINESS AS INSURANCE BROKERS

5. The Competent Authority shall establish and maintain a register of persons carrying on business of insurance broking, in this Act referred to as “the Brokers Register”, containing the names, addresses, The insurance brokers register.

qualifications and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purpose of this section, determine, of all persons who are entitled under this Act to be registered therein and to apply in the manner determined by that Directive to be so registered.

Qualifications
for registration.

6. (1) Without prejudice to subsection (2) of this section, a person shall be entitled to be registered in 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 Directive made for the purposes of this section.

(2) A person shall not be entitled to carry on any business of insurance broking by virtue of his registration under this section unless he is a director or an employee of a company enrolled under section 9 or 10 of this Act.

List of companies
carrying on
business
as insurance
brokers.

7. The Competent Authority shall establish and maintain a list of companies carrying on business as insurance brokers, in this Act referred to as "the Brokers List", containing the names, principal places of business and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all companies which are entitled under this Act to be enrolled therein and to apply in the manner determined by that Directive to be so enrolled.

General
requirements
for enrolment.

8. Subject to section 9 or 10 of this Act, as the case may be, a company shall be entitled to be enrolled in the Brokers List if it satisfies the Competent Authority that -

(a) the company's objects are limited to business of insurance broking 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 Directive made for the purposes of this section;

(b) the company's own funds, whether in Maltese liri or in other currencies acceptable to the Competent Authority and unencumbered at all times, amount to the value of not less than

twenty-five thousand Maltese liri, or such other higher value as may be prescribed:

Provided that the Competent Authority may further require such higher value as it may deem appropriate for the kind of business intended to be carried on by the company;

(c) all qualifying shareholders, controllers and all persons who will effectively manage the affairs or carry on the activities of the company are fit and proper persons to ensure its sound and prudent management;

(d) the company 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 enrolment of the company, have any proprietary, financial or other interest in, or in connection with, that company;

(e) the company submits to the satisfaction of the Competent Authority a scheme of operations which shall include the particulars or proof as may be determined by the Insurance Intermediaries Directive made for the purpose of this section;

(f) the company has at all times in its favour a policy of professional indemnity insurance 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.

9. A local company shall be entitled to be enrolled in the Brokers List if, in addition to the requirements of section 8 of this Act, the Competent Authority is satisfied that any one or more of the company's directors are registered insurance brokers and the business of insurance broking is carried on under the management of a registered insurance broker.

Specific requirements for enrolment in the case of local companies.

10. (1) A foreign company shall be entitled to be enrolled in the Brokers List if, in addition to the requirements of section 8 of this Act, the Competent Authority is satisfied that -

Specific requirements for enrolment in the case of foreign companies.

(a) the company is registered or permitted in the country where its head office is situated to carry on business of insurance broking;

(b) the company has in Malta at all times -

(i) a branch; and

(ii) a representative.

(2) In relation to a branch of a foreign company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, the requirements referred to therein are those set out in the following provisions of this subsection -

(a) in the case of a company carrying on business as insurance broker:

(i) the person is a registered insurance broker,

(ii) the person is a director of the company or has authority to act for the company; and the business of insurance broking is carried on under his management,

(iii) the person 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.

Registration of persons for carrying on business as insurance brokers.

11. No person shall act as an insurance broker and carry on, or attempt to carry on, in or from Malta, business as insurance broker unless such person is registered under section 13 of this Act.

Enrolment of companies for carrying on business as insurance brokers.

12. (1) No company which is a local company shall carry on, or attempt to carry on, in or from Malta, or in or from a country outside Malta, business as insurance broker unless such company is enrolled under section 13 of this Act.

(2) No company which is a foreign company shall carry on, or attempt to carry on, in or from Malta, business as insurance broker unless such company is enrolled under section 13 of this Act.

Grant of registration or enrolment.

13. (1) An application for registration or enrolment under this section shall be made in such form and manner as the Competent Authority may from time to time determine.

(2) The Competent Authority shall have the power to require any applicant to provide such information as it may deem necessary for the purpose of determining an application for registration or enrolment under this section.

(3) The Competent Authority may grant registration or enrolment under this section 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 section 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 section within three months of receiving the information required to be submitted under this Act; and if it refuses to grant registration or enrolment it shall inform the applicant in writing of the reasons for the refusal.

14. (1) On granting an application for registration or enrolment under section 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 -

Certificate of registration or enrolment.

(a) in the case of an application for registration, registration of the applicant concerned in the Brokers Register;

(b) in the case of an application for enrolment, enrolment of the applicant concerned in the Brokers List.

(2) A certificate of registration or enrolment issued under this section or an official copy thereof shall be prominently displayed by the holder concerned at his, or its, place or places of business, in a part thereof to which the public has access.

15. (1) Every local company enrolled under section 13 of this Act shall make application in writing to the Competent Authority before opening a branch in Malta.

Opening of branches by enrolled local companies.

(2) The Competent Authority may permit a local company enrolled as aforesaid to open a branch in Malta if it is satisfied that the business of insurance broking carried on by it from the branch is under the management of a registered insurance broker.

(3) Except with the written consent of the Competent Authority, no local company enrolled as aforesaid may open a branch or office or set up or acquire any subsidiary in any country outside Malta.

16. Without prejudice to anything contained in any other provision of this Act, the Competent Authority may at any time strike off the Brokers Register or the Brokers List the name of any registered person or enrolled company if -

(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 person or the enrolled company has concealed, or conceals from or fails to notify to, the Competent Authority any document or information or change therein which it was his or its duty to reveal or to notify under this Act and any rules or regulations made thereunder, or any Insurance Intermediaries Directive; or

(b) it considers that the registered person or the enrolled company does not fulfil the requirements of, or has contravened, any of the provisions of this Act and any rules or regulations made thereunder, or any Insurance Intermediaries Directive, 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 person is unfit to retain his name on the Brokers Register or the enrolled company is no longer managed in a sound and prudent manner to retain its name in the Brokers List; or

(d) it receives a written request so to do by the registered person or the enrolled company; or

(e) the enrolled company no longer possesses the required own funds; or

(f) the registered person or the enrolled company fails to pay the annual continuance of registration or enrolment fee when due; or

(g) the registered person or the enrolled company does not carry on business of insurance broking within twelve months from registration or enrolment, or within such other period as may be specified in the certificate of registration or enrolment, or as may be granted by the Competent Authority; or

(h) the enrolled company is declared bankrupt or 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 insurance broker; or

(j) it considers that, by reason of the manner in which the registered person or the enrolled company is carrying on the business of insurance broking, or for any other valid reason, the interest of the insurance industry or of the public is threatened; or

(k) the registered person or the enrolled company has misappropriated or converted to his or to its own use or illegally withheld moneys held, or required to be held, by him or by it in a fiduciary capacity; or

(l) the registered person is convicted by any court of law of any criminal offence, not being an offence which, owing to its trivial nature or the circumstances under which it was committed, does not render him unfit to have his name in the Brokers Register; or

(m) the registered person or the enrolled company is considered by the Competent Authority to have carried on business of insurance broking in an unprofessional manner.

17. (1) Subject to the following provisions of this section, where the Competent Authority intends to strike the name of a registered person or of an enrolled company off the Brokers Register or the Brokers List, it shall give the person or the company concerned notice in writing setting out the reasons for its intention to do so.

Notification of intention of striking of a name off the Brokers Register or the Brokers List.

(2) Every notice given under subsection (1) of this section shall state that the person or the company 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 the enrolment should not be struck off the Brokers Register or the Brokers List and the Competent Authority may 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 or the company concerned.

(4) On notification by the Competent Authority to a person or a company that his or its name has been struck off the Brokers Register or the Brokers List, the person or the company concerned shall forthwith surrender to the Competent Authority the certificate of registration or enrolment, and any official copies thereof.

18. (1) Where the name of a person or of a company has been struck off the Brokers Register or the Brokers List in pursuance of a decision under section 16 of this Act, the name of that person or company shall not again be entered in the Brokers Register or the Brokers List unless -

(a) otherwise ordered by the Financial Services 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 or of a company to the Brokers Register or the Brokers List under this section within three months of receiving the information required to be submitted under this Act as if the application were an application made under section 13 of this Act; and if it refuses to restore a name of a person or of a company to the Brokers Register or the Brokers List, it shall inform the applicant in writing of the reasons for the refusal.

(3) Subsection (2) of this section shall not apply where the restoration of a name of a person or of a company to the Brokers Register or the Brokers List is made by an order of the Tribunal.

(4) Where the name of a person or company is struck off the Brokers Register or the Brokers List on any of the grounds specified in section 16 of this Act, if the Competent Authority elects to give publicity to the striking of that name off the Brokers Register or the Brokers List, the Competent Authority shall publish a notice giving publicity to the striking off of that name in a manner it deems appropriate in at least two daily local newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be in Maltese in the Maltese daily and in English in the English daily.

(5) The Competent Authority shall have power to order that all expenses of a publication of a notice pursuant to this section, or such part thereof as it deems appropriate, shall be paid by the person or company 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.

OBLIGATIONS OF ENROLLED COMPANIES

19. (1) Every enrolled company shall keep moneys held by it in a fiduciary capacity separate from its own moneys and shall, in respect of those moneys, maintain separate accounts in accordance with requirements determined by an Insurance Intermediaries Directive made for the purposes of this section.

Moneys held in a fiduciary capacity.

(2) No person shall have or obtain any recourse or right against moneys standing to the credit of the account referred to in subsection (1) of this section in respect of a claim or right against an enrolled company until all proper claims against those moneys have been satisfied.

20. (1) Without prejudice to section 19 of this Act, every enrolled company shall effect a fidelity bond in a specified form, as respects its business of insurance broking, in such circumstances, to such value, in such manner and under such conditions as may be determined by an Insurance Intermediaries Directive made for the purposes of this section.

Fidelity bonds required of enrolled companies.

(2) The bond referred to in subsection (1) of this section shall provide that in the event of an enrolled company's inability or failure to meet its financial obligations in relation to any sums of money received by it from, or on behalf of, 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 company who has incurred loss or liability because of the inability or failure of the company to meet such financial obligations.

21. (1) Subject to the following subsections of this section, 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 enrolled company on behalf of an insured person or a person to be insured shall be taken out with an authorised company.

Contracts of insurance relating to risks situated in Malta or to commitments where Malta is the country of the commitment.

(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, 1998 and such contract is a contract relating to a risk situated in Malta and is taken out with a Protection & Indemnity Club, that Club shall have to be a Club within the meaning of a "Protection & Indemnity Club" as construed in accordance with subsection (3) of section 6 of the said Act; and the

Club shall have to satisfy or comply with the requirements of the Insurance Directive made for the purposes of the said section 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 subsection (2) of this section, the provisions of this section shall not apply to -

(a) contracts of insurance of a class, or part class, falling within group 3 or 4, other than contracts relating to marine risks which the Minister may, by Order in the Gazette, from time to time determine;

(b) business of reinsurance or affiliated insurance.

Notification of persons registered in the Brokers Register.

22. 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 Brokers Register; and during the next 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 not later than twenty days from the date of such change.

Submission of audited financial statements.

23. 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 -

(a) in the case of a local company, in accordance with the provisions of the Companies Act, 1995; and

(b) in the case of a foreign company, in accordance with the provisions of the laws of the country where the head office of the company is situated governing the financial statements of such companies.

Submission of business of insurance broking statements.

24. (1) Subject to the following subsections of this section, an enrolled company which in any calendar year carries on business of insurance broking shall, in respect of the business of insurance broking 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 Directive made for the purposes of this section determine; and the date by which

such statement shall be forwarded shall also be established by that Directive.

(2) The statement required to be submitted under this section shall be verified in the manner required by the Insurance Intermediaries Directive.

(3) The Competent Authority may at any time direct an enrolled company to submit to it such statement at such interval and for such period as it may specify in such directive.

25. An enrolled company shall not cease to carry on, in or from Malta, business as insurance broker 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.

Companies
ceasing to
carry
on business
as insurance
broker.

FINANCIAL YEAR AND AUDITORS

26. (1) Every enrolled company 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 its financial year; and, failing such notice, the company's financial year shall terminate on the thirty-first day of December of each year.

Financial
year of
enrolled
companies.

(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 section 13 of this Act shall, on application, notify in writing the Competent Authority of its financial year; and after enrolment under that section, 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 sections 164 to 166 of the Companies Act, 1995;

(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 head office of the company is situated governing the accounting period of such companies.

27. (1) Every enrolled company 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.

(2) If an enrolled company fails to appoint an auditor as required by subsection (1) of this section 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 rules or regulations made thereunder and of any Insurance Intermediaries Directives in respect of the 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 case of resignation, 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 the 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 its appointed auditor in the circumstances mentioned in subsection (8) of this section, the Competent Authority shall notify in writing its intention to the company and the auditor concerned stating the 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 reason 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, 1995 and holds the authorisation of the Competent Authority to act as auditor issued to him under the Insurance Business Act, 1998.

(11) Notwithstanding anything contained in the foregoing subsections of this section, 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 section, and where such arrangements have been carried out, the provisions of this section 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 business of insurance broking in Malta he shall immediately inform the Competent Authority through the company's management or, if circumstances so warrant, directly to the Competent Authority.

(13) Subject to the provisions of subsection (10) of this section, in so far as the provisions of this section are inconsistent with the provisions of the Companies Act, 1995, the provisions of this section shall prevail and the provisions of the said Act shall, to the extent of the inconsistency, not apply to an enrolled company.

28. No duty (including the duty of professional secrecy) to which -

(a) an auditor of an enrolled company may be subject, shall be regarded as contravened by reason of his communicating in

Communication
by auditors etc.
with the
Competent
Authority.

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 of that company 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.

REGISTRATION AND ENROLMENT OF INSURANCE SUB-AGENTS

The insurance sub-agents company registers.

29. (1) Every authorised company desirous of appointing a person to act on its behalf as an insurance sub-agent shall establish and maintain a register of persons acting as insurance sub-agents, in this Act referred to as “the Sub-agents Company Register”, containing the names, addresses, the class or classes of long term business or the group or groups of classes of general business to be carried out by such persons under their respective sub-agency appointment and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all persons who are entitled under this Act to be registered therein.

(2) Subject to the provisions of subsection (1) of this section, every authorised company shall determine its own procedures for appointing and registering a person as an insurance sub-agent in the Sub-agents Company Register of the company.

Qualifications for registration.

30. (1) A person shall be entitled to be registered by an authorised company in the Sub-agents Company Register of the company if the company is satisfied that such person is fit and proper to carry out insurance sub-agency activities.

(2) A person shall not be entitled to carry out insurance sub-agency activities by virtue of his registration under section 33 of this Act unless and until he is enrolled by the Competent Authority in the Sub-agents List under that section.

31. (1) The Competent Authority shall establish and maintain a list of persons carrying out insurance sub-agency activities in this Act referred to as “the Sub-agents List”, containing the names of such persons, the names of authorised companies appointing and registering such persons as insurance sub-agents, the class or classes of long term business or the group or groups of classes of general business to be carried out by such persons under their respective sub-agency appointment and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all persons who are, or which are, entitled under this section to be enrolled therein.

List of persons carrying out insurance sub-agency activities.

(2) It shall be the duty of an authorised company to enrol with the Competent Authority in the Sub-agents List any person registered by it as an insurance sub-agent in the Sub-agents Company Register of the company under section 33 of this Act.

(3) On obtaining from the Competent Authority a certificate of enrolment under section 33 of this Act, an authorised company shall furnish the person in whose name the certificate of enrolment is made out with the certificate issued to the company by the Competent Authority or an official copy thereof.

(4) Where a person enrolled as aforesaid carries out insurance sub-agency 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 issued by the Competent Authority under this section or an official copy thereof.

32. No person shall act as an insurance sub-agent and carry out, or attempt to carry out in Malta insurance sub-agency activities unless such person is appointed, registered and enrolled in accordance with the provisions of this Act.

Restriction on persons for carrying out insurance sub-agency activities.

33. (1) Subject to the provisions of this Act, every authorised company desirous of appointing a person to act on its behalf as an insurance sub-agent shall, under this section, appoint and register in the Sub-agents Company Register of the company and enrol with the Competent Authority in the Sub-agents List, any one or more persons to act on its behalf as insurance sub-agents and to carry out in Malta insurance sub-agency activities in the class or classes of long term business or the class or classes, or group or groups of classes, of general business specified in their respective sub-agency appointment; and, where a person is not an individual, such person must itself have an individual who satisfies the requirements of subsection (1) of section 30 of this Act:

Appointment, registration and enrolment of insurance sub-agents.

Provided that a company is prohibited from appointing and registering in the Sub-agents Company Register of the company a person which is -

- (a) a person registered in the Brokers Register under section 13 of this Act;
- (b) a company enrolled in the Brokers List under that section;
- (c) a company authorised under the Insurance Business Act, 1998 -
 - (i) to carry on business of insurance;
 - (ii) to act as an insurance agent;
 - (iii) to act as an insurance manager:

Provided further that a company is prohibited from appointing any person acting on its behalf as an insurance sub-agent to carry out any insurance sub-agency activity within any class or group of classes of business of insurance as the Competent Authority may from time to time by an Insurance Intermediaries Directive made for the purposes of this section determine to be a class or group of classes of business within which no insurance sub-agency activities shall be carried out.

(2) Where an authorised company appoints and registers in the Sub-agents Company Register of the company a person which is not an individual, and that person carries out insurance sub-agency activities from any one or more places of business, that person shall ascertain that insurance sub-agency activities so carried out by it from each such place of business are carried out only by an individual who satisfies the requirements of subsection (1) of section 30 of this Act.

(3) Subject to subsections (4) to (6) of this section, any person, other than a person mentioned in the first proviso to subsection (1) of this section, may seek and obtain under this section appointment and registration in a Sub-agents Company Register of an authorised company to carry out insurance sub-agency activities on behalf of that company.

(4) Any person desirous of seeking appointment and registration in a Sub-agents Company Register of an authorised company to carry out insurance sub-agency activities -

(a) relating to long term business, may obtain appointment and registration in the Sub-agents Company Register of not more than two companies authorised to carry on long term business;

(b) relating to general business, may obtain appointment and registration in the Sub-agents Company Register of not more than two companies authorised to carry on general business.

(5) Where a person desires to seek appointment and registration in the Sub-agents 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 insurance sub-agency activities relating to that kind of class of business only in the Sub-agents Company Register of one of the companies concerned.

(6) Where a person desires to seek appointment and registration in the Sub-agents 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 insurance sub-agency activities relating to that class, or that group of classes, of business only in the Sub-agents Company Register of one of the companies concerned.

(7) No person who is an employee of an authorised company shall, solely by virtue of his employment by the company, require registration in the Sub-agents Company Register of the company under this section except where such person carries out insurance sub-agency activities on behalf of the company in a place or places, other than the company's place, or places of business.

(8) On granting an application for enrolment under this section the Competent Authority shall issue to the applicant concerned a certificate of enrolment in the form and manner it deems appropriate evidencing enrolment of the person registered in the Sub-agents Company Register of the applicant in the Sub-agents List.

(9) Subject to the provisions of this Act, the Competent Authority may subject enrolment made under this section to such conditions as it may from time to time deem fit to impose.

(10) An authorised company shall at all times be responsible for any act or omission of its registered insurance sub-agents 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 insurance sub-agents. For the purposes of this subsection any reference to registered insurance sub-agents shall include a reference to past as well as present registered insurance sub-agents.

(11) Notwithstanding any other provision of this Act, for the purposes of this section, "authorised company" shall not include

any member of a Recognised Insurance Body carrying on business of insurance in Malta solely with an enrolled company.

Striking names
off sub-agents
company registers.

34. Subject to the provisions of section 35 of this Act and to the terms and conditions of any relevant insurance sub-agency appointment, at any time and for any reason whatever -

(a) any authorised company may strike off the Sub-agents Company Register of the company the name of any person registered in the Register of the company;

(b) any person registered in the Sub-agents Company Register of an authorised company may make application in writing to the company concerned requesting the company to strike his name off the Sub-agents Company Register of the company.

Striking names
off sub-agents
company registers.

35. (1) Where an authorised company elects to strike the name of a person off the Sub-agents 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 Sub-agents 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 Sub-agents 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 subsection (2) of this section, 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 Sub-agents 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 subsection (2) of this section, before striking the name of such person off the Sub-agents List, forthwith, give the person concerned notice in writing setting out the reasons for so doing and the provisions of subsections (2) and (3) of section 17 of this

Act shall *mutatis mutandis* apply to a notice given under this section.

(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 Sub-agents List on the grounds specified in subsection (2) of this section, the Competent Authority may give publicity to the striking of that name off the Sub-agents List and -

(a) if the name of that person is registered in the Sub-agents 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 Sub-agents 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 Sub-agents List, the Competent Authority shall publish a notice giving publicity to that striking off in a manner it deems appropriate in at least two daily local newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be in Maltese in the Maltese daily and in English in the English daily.

(5) The Competent Authority shall have power to order that all expenses incurred by the publication of a notice pursuant to this section, 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 Sub-agents Company Register of the company requesting the company to strike the name of that person off the Sub-agents Company Register of the company, the company shall without undue delay strike the name of that person off the Sub-agents Company Register of the company 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 subsection (6) of this section, the company refuses, or unduly prolongs the process, to strike the name of a person off the Sub-agents 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 the Sub-agents Company Register of the company.

(8) On notification by the Competent Authority to an authorised company that the name of a person registered in the Sub-agents Company Register of the company has been struck off the Sub-agents 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.

36. 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 Sub-agents List;
- (b) strike the name of a person off the Sub-agents List:

Provided that, in each case, the Competent Authority shall inform the company concerned in writing of the reasons for so doing.

Restoration of a name struck off the Sub-agents List.

37. Where in pursuance of section 35 of this Act the name of a person has been struck off the Sub-agents List -

- (a) on grounds contained in subsection (2) of that section, the name of that person shall, upon application by an authorised company, again be enrolled in the Sub-agents List only on the order of the Tribunal or on acquittal from an offence under that subsection by any court;
- (b) on grounds other than those contained in subsection (2) of that section, the name of that person may, upon application by an authorised company, again be enrolled in the Sub-agents List.

GENERAL PROVISIONS

Co-operation in supervisory duties and sharing of information.

38. (1) On the basis of international agreements, or upon reciprocity agreements, the Competent Authority may share information and co-operate in its supervisory duties with other foreign regulatory authorities -

- (a) in the case of an enrolled company, or a branch of an enrolled company, as the case may be, carrying out business of

insurance broking in or from Malta which is fully or partly owned by a foreign person; or

(b) in the case of an enrolled company which is a local company, carrying out business of insurance broking in or from a country outside Malta which is fully or partly owned by a Maltese resident.

(2) There shall be meetings held between an authorised company and the Competent Authority or between an enrolled company, its approved auditor and the Competent Authority on a bilateral or a trilateral basis as circumstances may warrant. These meetings may be called by any of the parties concerned but shall always be chaired by the Competent Authority.

39. (1) Nothing in this Act shall authorise the Competent Authority to enquire or cause an enquiry to be made in an enrolled company into the affairs of any individual client of the enrolled company except for the purpose of ensuring compliance with any of the provisions of this Act. Confidentiality.

(2) No person, including past and present officers or agents of an enrolled company, shall disclose any information relating to the affairs of an enrolled company or of a client of an enrolled company 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 required to do so by any court or under a provision of any law.

(3) In this section, the expression “agents”, in relation to an enrolled company, means and includes the bankers and the auditor of the company.

(4) 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, 1994 and any guidelines issued by the Competent Authority. Compliance with the provisions of this subsection shall not constitute a breach of confidentiality.

Inspection of
the registers
and the lists.

40. (1) The Brokers Register, the Brokers List and the Sub-agents List shall be open to public inspection, free of charge, at the offices of the Competent Authority at all times during the normal working hours of the Authority.

(2) Any person may, upon payment of such fee as may be prescribed, obtain from the Competent Authority extracts from the Brokers Register, the Brokers List and the Sub-agents List and official copies of certificates of registration or enrolment.

(3) The Sub-agents Company Register of any company shall be open to public inspection, free of charge, at the principal office of the authorised company concerned during the normal working hours of the company.

Use of the
word "insurance".

41. (1) Subject to the following provisions of this section, save with the written permission of the Competent Authority, no person other than -

(a) a person registered in the Brokers Register under section 13 of this Act; or

(b) a company enrolled in the Brokers List under that section; or

(c) a company authorised under the Insurance Business Act, 1998; or

(d) a person who holds insurance qualifications of an institute of repute recognised for such purpose by the Competent Authority; or

(e) an institute of repute which provides instruction in insurance business studies and is recognised as such by the Competent Authority; or

(f) 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 Directive made for the purpose of this section, determine the qualifications or experience in business of insurance which are required of persons, other than persons referred to in the foregoing subsections of this section, who, on application to the Competent Authority, may be permitted under this section to use the word “insurance” as part of their description or title.

(4) For the purposes of this section, the expression “insurance” includes reinsurance, assurance and reinsurance and any of their derivatives or other words as may indicate or purport to indicate the carrying on of business of insurance or of business of insurance broking 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.

42. A notice or other document to be given or served under this Act and any rules or regulations made thereunder shall be deemed to have been duly given or served on a person if - Service of notices, etc.

- (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 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.

43. (1) Subject to the following subsections of this section, any company enrolled under section 13 of this Act may make or enter into any underwriting agreement in respect of general business classes with any authorised company. Underwriting agreements.

(2) No company enrolled as aforesaid shall make or enter into any underwriting agreement unless, with respect to that underwriting agreement, the company complies with or satisfies such requirements

as the Competent Authority may by an Insurance Intermediaries Directive made for the purposes of this section determine.

(3) Any company enrolled as aforesaid shall register with the Competent Authority any underwriting agreement made or entered into under this section in the form and manner as the Competent Authority may by the Insurance Intermediaries Directive 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 section within one month of receiving the information required to be submitted under the Insurance Intermediaries Directive; 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 section to such conditions as it may from time to time deem fit to impose.

(7) For the purposes of this section “underwriting agreement”, in relation to business of insurance, means an agreement between an authorised company and a company enrolled under section 13 of this Act under which the enrolled company may, in accordance with the terms thereof, accept risks situated in Malta on behalf of the authorised company; and, in this context, any other agreement, by whatever name it may be called, whose objects and purposes are similar to an underwriting agreement, for the purposes of this section, is deemed to be an underwriting agreement.

Changes in
documentation.

44. (1) Every enrolled company 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 rules or regulations made thereunder or any Insurance Intermediaries Directive, as soon as it becomes aware of such changes.

(2) Without prejudice to section 49 of this Act insofar as it refers to section 38 of the Insurance Business Act, 1998, every enrolled company which is a local company shall, 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.

45. (1) In this Act, the “Financial Services Tribunal” and “Tribunal” mean the Tribunal established in terms of section 10 of the Banking Act, 1994: Appeals.

Act XV of 1994.

Provided that for the purposes of procedures arising under this Act the proviso to subsection (1) of section 57 of the Insurance Business Act, 1998 shall apply:

Provided further that, for the purposes of those procedures, the provisions of section 10 of the Banking Act, 1994 shall, except in so far as any of them is incompatible with the provisions of this section, also apply.

(2) Subject to the provisions of this section, 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 section 13 or 36 of this Act;

(b) to impose any condition on, or subsequent to, registration and enrolment under section 13 of this Act;

(c) to strike the name of a person off the Brokers Register or the name of a company off the Brokers List under section 16 of this Act;

(d) to refuse to restore the name of a person to the Brokers Register or the name of a company to the Brokers List under subsection (2) of section 18 of this Act;

(e) to strike the name of a person off the Sub-agents List under paragraph (b) of subsection (3) of section 35 of this Act;

(f) to require an authorised company to strike the name of a person off the Sub-agents Company Register of a company under section 36 of this Act;

(g) to refuse to register an underwriting agreement under section 43 of this Act;

(h) to impose an administrative penalty in respect of infringements as may be prescribed under section 3 of this Act,

may appeal against the decision to the Financial Services Tribunal which shall have exclusive competence to hear appeals on the matters listed in this subsection.

(3) An appeal under this section 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 section 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 subsection (4) of this section.

Exclusion
of liability.

46. 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 rules or 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 rules or 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.

47. (1) Any person -

(a) who contravenes or fails to comply with any of the provisions of this Act, or of section 29, 30 or 38 of the Insurance Business Act, 1998 as applicable in accordance with section 49 of this Act;

(b) who contravenes or fails to comply with any rules or regulations made under this Act, other than rules or regulations in relation to which administrative penalties have been prescribed under paragraph (d) of subsection (3) of section 3 of this Act;

(c) who contravenes or fails to comply with any Insurance Intermediaries Directive or registration or enrolment condition;

(d) who fails to comply with any lawful order or requirement of the Competent Authority;

(e) who fails to comply with any order or requirement of the Financial Services Tribunal;

(f) who fails to comply with any lawful order or requirement of any other person made under this Act and any rules or 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 rules or 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 subsection (1) of this section 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 section prescribing penalties for offences against this Act, and such regulations may –

(a) prescribe penalties which are enforceable by prosecution in the courts of Malta;

(b) prescribe different penalties for contraventions of different provisions of this Act;

(c) prescribe penalties calculated in accordance with the duration of the commission of the offence,

unless such penalties are otherwise imposed under section 3 of this Act.

48. (1) The penalties prescribed by regulations made under Penalties. section 47 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 (d) of subsection (3) of section 3 of this Act 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 sections of the Insurance Business Act, 1998 to enrolled companies.

49. (1) Sections 29, 30, 31 and 38 of the Insurance Business Act, 1998 (in this section referred to as “the Act”) shall apply with respect to a company enrolled in the Brokers List subject to the following provisions of this section.

(2) Sections 29, 30, 31 and 38 of the Act shall apply as if -

(a) reference to an “authorised company” were a reference to an “enrolled company”;

(b) reference to the “Competent Authority” were a reference to the “Competent Authority” carrying out the functions of the Competent Authority under this Act;

(c) reference to “business of insurance” were a reference to “business of insurance broking”;

(d) reference to “Insurance Directive” were a reference to “Insurance Intermediaries Directive”;

(e) reference to a “company whose head office is in a country outside Malta” were a reference to a “foreign company”.

Application of Exchange Control Act. Cap. 233.

50. The Exchange Control Act shall not apply to business of insurance broking carried out by an enrolled company with a client who is a person not resident in Malta for the purposes of the said Act.

Savings. Cap. 290.

51. (1) Every licence issued or renewed or other action whatsoever taken or commenced under the Insurance Business Act, 1981 (in this section referred to as “the Act”), prior to its repeal by the Insurance Business Act, 1998, in so far as it applies to insurance brokers and insurance salesmen, shall continue in force and to be valid as if

such licence were a certificate of enrolment issued or as if such other action were action taken or commenced under this Act.

(2) Any person or company licensed under the Act to act as an insurance broker or insurance salesman shall, not later than the appointed date, conform with the provisions of this Act or otherwise cease to act as an insurance broker or insurance salesman, 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 Act. For the purpose of this section “appointed date” means a day being six months after the date of coming into force of this Act.

(3) Where a company ceases to act as an insurance broker on 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 section 25 of this Act on the appointed date to cease to carry on business as insurance broker on that date and to have been given permission by the Competent Authority under that section on the appointed date to cease to carry on such business on that date and to service that business as from that date. The Competent Authority may impose such conditions with regard to the servicing of that business as it may deem proper.

(4) For the purpose of this section, “licence” includes authority, permit, approval and appointment.

(5) The provisions of this section shall not apply to insurance broking offshore companies registered under the Malta Financial Services Centre Act, until such time as the Minister may by Order in Cap. 330. the Gazette establish.

SCHEDULE

(Section 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 subsection (1) of section 2 of the Insurance Business Act, 1998;

First Column	Second Column	Third Column
Independent Insurance Intermediaries	Dependent Insurance Intermediaries	Insurance Intermediaries Activities
Insurance broker	Insurance sub-agent	<p>1. Professional activities of persons listed in the First Column of this Schedule who, acting with complete freedom as to their choice of lawful insurance companies, bring together, with a view to the insurance or reinsurance of risks or commitments, persons seeking insurance or reinsurance and insurance companies, 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>2. Activities of persons listed in the Second Column of this Schedule who, acting on behalf of</p>

First Column	Second Column	Third Column
Independent Insurance Intermediaries	Dependent Insurance Intermediaries	Insurance Intermediaries Activities
		authorised companies, among other things carry out introductory work, introduce contracts of insurance or collect premiums, provided that no insurance commitments towards or on the part of the public are given as part of these activities.

Passed by the House of Representatives at Sitting No. 241 of the 14th July, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives