

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,482, 6 ta' Ottubru, 2015

Taqsim C

Nru. 117

6. 10. 2015

MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Chris Cardona, M.P., Ministru għall-Ekonomija, Investiment u Intraprizi Żgħar, f'isem il-Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tal-5 ta' Ottubru, 2015.

A BILL introduced by the Honourable Chris Cardona, M.P., Minister for the Economy, Investment and Small Business, on behalf of the Minister for Finance, and read the First time at the Sitting of the 5th October, 2015.

ATT biex ikompli jemenda diversi ligijiet dwar servizzi finanzjarj, biex jittrasponi d-Direttiva 2009/138/KE (“id-Direttiva Solvibilità II”), u biex jipprovdi dwar affarijiet anċillari jew incidental għalihom.

AN ACT to amend various financial services laws, to transpose Directive 2009/138/EC (“the Solvency II Directive”), and to provide for matters ancillary or incidental thereto.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

RAYMOND SCICLUNA
Clerk of the House of Representatives

Abbozz ta' Ligi msejjah

ATT biex ikompli jemenda diversi ligijiet dwar servizzi finanzjarj, biex jittrasponi d-Direttiva 2009/138/KE ("id-Direttiva Solvibilita' II"), u biex jipprovi dwar affarijiet ancillari jew incidentali għalihom.

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

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 li jemenda Diversi Ligijiet dwar is-Servizzi Finanzjarji (Emenda Nru. 2).

Titolu fil-qosor
u bidu fis-sehh.

(2) Id-dispożizzjonijiet ta' dan l-Att għandhom jidhlu fis-sehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' dan l-Att.

TAQSIMA I EMENDI FL-ATT DWAR IL-KUMMERĊ TAL- ASSIGURAZZJONI, KAP. 403

2. Din it-Taqsima temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar il-Kummerċ tal-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emendi tal-Att
dwar il-
Kummerċ ta l-
Assigurazzjoni.
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Bdil tal-isem u
enumerazzjoni
mill-ġdid tat-
Taqsimiet tal-
Att prinċipali.

3. It-"TAQSIM TAL-ATT" tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) fit-"Taqsim IV. Kundizzjonijiet għat-Tmexxija ta' Kummerċ tal-Assigurazzjoni", taħt l-intestatura "Artikoli", minflok iċ-ċifri "14-18", għandhom jidhlu iċ-ċifri "14-18I";

(b) minnufih wara t-"Taqsim IV. Kundizzjonijiet għat-Tmexxija ta' Kummerċ tal-Assigurazzjoni", għandhom jiżdiedu dawn it-titoli ġodda li ġejjin:

"Titulu I: Htiġiet Finanzjarji

Titulu II: Sistemi ta' Governanza";

(ċ) fit-Titoli I u II ġodda, taħt l-intestatura "Artikoli", għandhom jiżdiedu dawn iċ-ċifri li ġejjin "14-18G", u "18H-18I" rispettivament;

(d) fit-"Taqsim VII. Superviżjoni ta' Kumpanniji Awtorizzati", minflok il-kliem "ta' Kumpanniji Awtorizzati", għandhom jidhlu l-kliem "ta' Imprizi tal-Assigurazzjoni u tar-Rijassigurazzjoni Awtorizzati"; u

(e) minnufih wara t-"Taqsim VII. Superviżjoni ta' Imprizi tal-Assigurazzjoni u tar-Rijassigurazzjoni Awtorizzati", għandha tiżdied din it-Taqsim ġdida li ġejja:

"Taqsim VIIA. Superviżjoni ta' Grupp";

(f) fit-"Taqsim VIIA. Superviżjoni ta' Grupp" ġdida, taħt l-intestatura "Artikoli", għandhom jiżdiedu iċ-ċifri "32A-32E";

(g) fit-"Taqsim X. Tmexxija tal-Kummerċ tal-Assigurazzjoni", taħt l-intestatura "Artikoli", minflok iċ-ċifri "43-48" għandhom jidhlu iċ-ċifri "43-48Ċ".

Emenda tal-
artikolu 2 tal-
Att prinċipali.

4. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok it-tifsira "awtorità regolatorja barranija", għandu jidhol dan li ġej:

Kap. 330. " "awtorità regolatorja barranija" tfisser awtorità f'pajjiż jew territorju barra minn Malta, li ma jkunx Stat Membru jew Stat ŻEE, li teżercita xi funzjoni regolatorja jew superviżorja dwar servizzi finanzjarji li tikkorrispondi għal xi funzjoni tal-awtorità kompetenti kif imfissra fl-Att dwar Awtorità għas-Servizzi Finanzjarji ta' Malta;"

(ii) minnufih wara t-tifsira "awtorità regolatorja barranija", għandha tiżdied din it-tifsira ġdida li ġejja:

" "awtorità regolatorja Ewropea" tfisser l-awtorità superviżorja jew l-awtoritajiet superviżorji kif imfissra fl-Artikolu 13 tad-Direttiva Solvibilità II, maħtura minn Stat Membru jew Stat ŻEE, li ma jkunx Malta, li jkollhom s-setgħa bil-liġi jew b'xi regolament biex jissorveljaw impriži tal-assigurazzjoni jew tar-rijassigurazzjoni;"

(iii) minnufih wara t-tifsira "awtorizzazzjoni", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Bord Ewropew dwar Riskji Sistemici" tfisser il-Bord Ewropew dwar Riskji Sistemici stabbilit bir-Regolament (UE) Nru. 1092/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 fuq is-sorveljanza makro-prudenzjali tas-sistema finanzjarja tal-Unjoni Ewropea u li jistabbilixxi Bord Ewropew dwar Riskji Sistemici;"

(iv) minflok it-tifsira "direttur", għandha tidhol din it-tifsira ġdida li ġejja:

" "direttur", dwar impriża, tinkludi individwu li jkun jokkupa l-pożizzjoni ta' direttur tal-impriża, ikun kif ikun imsejjaħ, li jkollu s-setgħa li jmexxi sostanzjalment l-istess funzjonijiet relattivi għad-direzzjoni tal-impriża bħal dawk magħmulin minn direttur u, dwar impriża tal-assigurazzjoni ta' pajjiż terz jew impriża tar-rijassigurazzjoni ta' pajjiż terz, tinkludi membru ta' xi bord lokali, u l-persuna msemmija bħala r-rappreżentant ta' dik l-impriża

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għall-fini tal-artikolu 11(1)(b)(i);";

(v) minnufih wara t-tifsira "direttur", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Direttiva Solvibilità II" tfisser id-Direttiva 2009/138/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 dwar il-bidu u l-eżerċizzju tal-kummerċ tal-assigurazzjoni u tar-rijassigurazzjoni (Solvibilità II) (*recast*), kif emendata minn żmien għal żmien, u tinkludi kull att magħmul b'delega u kull *standard* tekniku li kienu jew li jistgħu jinħarġu bis-saħħa tagħha;"

(vi) minnufih wara t-tifsira ġdida "Direttiva Solvibilità II", għandha tiżdied din it-tifsira ġdida li ġejja:

" "dokument" jew "dokumentazzjoni" tinkludi informazzjoni rreġistrata f'kull forma u, fir-rigward ta' informazzjoni li tkun rreġistrata xort'oħra milli f'forma li tinqara, ir-referenzi għall-produzzjoni tagħha jinkludu referenzi għall-produzzjoni ta' kopja tal-informazzjoni f'forma li tinqara;"

(vii) minnufih wara t-tifsira ġdida " "dokument" jew "dokumentazzjoni" ", għandha tiżdied din it-tifsira ġdida li ġejja:

" "dritt Ewropew" tfisser il-jedd li jkollha impriza tal-assigurazzjoni awtorizzata, impriza tar-rijassigurazzjoni awtorizzata, impriza tal-assigurazzjoni Ewropea jew impriza tar-rijassigurazzjoni Ewropea, li tistabbilixxi fergħa jew tipprovdì servizzi, fi Stat Membru jew fi Stat ŻEE, li ma jkunx dak fejn ikollha l-uffiċċju prinċipali tagħha -

(a) kif hemm fit-Trattat ta' Ruma kif dan ikun japplika fi Stat Membru jew fi Stat ŻEE;

(b) bla ħsara għall-htigiet tad-Direttiva Solvibilità II u bla ħsara għal kull regolamenti magħmulin taht dan l-Att, jew Regoli dwar l-Assigurazzjoni maħruġin mill-awtorità kompetenti konformement ma' dan

l-Att, li jimplimentaw dawk il-htigiet;"

(viii) minnufih wara t-tifsira ġdida "dritt Ewropew", għandha tizdied din it-tifsira ġdida li ġejja:

" "EIOPA" tfisser l-Awtorità Ewropea tal-Assigurazzjoni u l-Pensjonijiet tax-Xogħol stabbilita kif hemm fl-Artikolu 1 tar-Regolament (UE) Nru. 1094/2010;"

(ix) fit-tifsira "fergħa", minflok il-kliem "tfisser il-fond tal-kumpannija, barra mill-uffiċċju prinċipali tagħha", għandhom jidhlu l-kliem "tfisser il-fond tal-impriza tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata, li ma jkunx l-uffiċċju prinċipali tagħha";

(x) minflok it-tifsira "fond ta' garanzija", għandu jidhol dan li ġej:

" "fond ta' garanzija" tfisser il-korp imsemmi fl-Artikolu 10(1) tad-Direttiva 2009/103/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009 dwar l-assigurazzjoni kontra responsabbiltà ċivili fir-rigward tal-użu ta' vetturi bil-mutur, u l-infurzar tal-obbligu ta' assicurazzjoni kontra din ir-responsabbiltà;"

(xi) minflok it-tifsira "fondi tal-kumpannija stess", għandu jidhol dan li ġej:

" "fondi tal-impriza stess" għandha tinftiehem skont ir-Regoli dwar l-Assigurazzjoni magħmulin mill-awtorità kompetenti għall-finijiet ta' dan l-Att;"

(xii) minnufih wara t-tifsira "funzjonijiet", għandha tizdied din it-tifsira ġdida li ġejja:

" "grupp" tfisser grupp ta' imprizi li:

(a) jikkonsisti f'impriza parteċipanti, is-sussidjarji tagħha u l-entitajiet li fihom l-impriza parteċipanti jew is-sussidjarji tagħha jkollhom parteċipazzjoni, kif ukoll imprizi marbutin ma' xulxin b'relazzjonijiet kif stabbiliti fl-Artikolu 22 tad-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-

dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji kkonsolidati u r-rapporti relatati ta' ċertu tipi ta' imprizi, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE; jew

(b) jkun ibbażat fuq it-twaqqif, b'kuntratt jew xort'oħra, ta' relazzjonijiet finanzjarji b'saħħithom u sostenibbli fost dawk l-imprizi, u li jistgħu jinkludu assoċjazzjonijiet reċiproċi jew ta' tip reċiproku, iżda:

(i) waħda minn dawk l-imprizi tkun effettivament teżerċita, permezz ta' koordinazzjoni ċentralizzata, influwenza dominanti fuq id-deċiżjonijiet, inklużi deċiżjonijiet finanzjarji, tal-imprizi l-oħra li jiffurmaw parti mill-grupp; u

(ii) it-twaqqif u x-xoljiment ta' dawk ir-relazzjonijiet għall-finijiet tat-Titolu III tad-Direttiva Solvibilità II li jkunu soġġetti għall-approvazzjoni minn qabel tas-superviżur tal-grupp,

fejn l-impriza li tkun qegħda teżerċita l-koordinazzjoni ċentralizzata għandha titqies bħala l-impriza *parent*, u l-imprizi l-oħra għandhom jitqiesu bħala sussidjarji;"

(xiii) minflok it-tifsira "*holding company*", għandu jidhol dan li ġej:

" "*kumpannija holding*" għandha l-istess tifsira bħal dik mogħtija lill-kliem "*parent company*" fl-Att dwar il-Kumpanniji;"

Kap. 386.

(xiv) minflok it-tifsira "*holding kwalifikattiv ta' azzjonijiet*", għandu jidhol dan li ġej:

" "*holding kwalifikattiv ta' azzjonijiet*" tfisser *holding* dirett jew indirett f'impriza li tirrappreżenta għaxra fil-mija jew iżjed tal-kapital

azzjonarju jew tal-jeddijiet ta' votazzjoni, meta jitqiesu l-jeddijiet ta' votazzjoni kif stipulati fl-Artikoli 9 u 10 tad-Direttiva 2004/109/KE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Diċembru 2004 dwar l-armonizzazzjoni tar-rekwiżiti ta' trasparenza f'dak li għandu x'jaqsam ma' informazzjoni dwar emittenti li t-titoli tagħhom huma ammessi għall-kummerċ f'suq regolat, u li temenda d-Direttiva 2001/34/KE, kif ukoll il-kundizzjonijiet dwar l-aggregazzjoni relattiva kif stipulata fl-Artikolu 12(4) u (5) ta' dik id-Direttiva, jew li jirrendi possibbli t-twettiq ta' influwenza sinifikattiva fuq it-tmexxija tal-impriża fejn ikun jeżisti dak il-*holding*, u "azzjonist kwalifikattiv" għandha tinftiehem b'dak il-mod:

Iżda, sabiex jiġi stabbilit jekk il-kriterji għal *holding* kwalifikattiv ta' azzjonijiet ikunux ġew imwettqa, l-awtorità kompetenti m'għandhiex tqis jeddijiet ta' votazzjoni jew azzjonijiet li impriži ta' investimenti jew istituzzjonijiet ta' kreditu jista' jkollhom bħala riżultat li jkun qegħdin jipprovdu *underwriting* ta' strumenti finanzjarji u, jew ta' tqegħid ta' strumenti finanzjarji fuq bażi ta' impenn sod kif hemm fil-punt 6 tat-Taqsima A tal-Anness 1 mad-Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta' April 2004 dwar is-swieq fl-istrumenti finanzjarji li temenda d-Direttivi tal-Kunsill 85/611/KEE u 96/6/KEE u d-Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttiva tal-Kunsill 93/22/KEE, sakemm dawk id-drittijiet m'humie, min-naħa waħda eżerċitati jew xort'oħra użati biex jintervjenu fil-manigġ tal-emittent u, mill-oħra, li jsir minnhom fi żmien sena mill-akkwist tagħhom;"

(xv) minnufih wara t-tifsira "*holding* kwalifikattiv ta' azzjonijiet", għandha tiżdied din it-tifsira ġdida li ġejja:

" "impriża" tirreferi għal impriża li l-uffiċċju prinċipali tagħha jkun f'Malta jew f'pajjiż barra minn Malta;"

(xvi) minnufih wara t-tifsira ġdida "impriża" għandha tiżdied din it-tifsira ġdida li ġejja:

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"impriza finanzjarja" tfisser xi waħda mill-entitajiet li ġejjin:

(a) istituzzjoni ta' kreditu, istituzzjoni finanzjarja jew impriza ta' servizzi bankarji anċillari fil-kuntest tat-tifsir tal-Artikolu 4(1), (5) u (21) tad-Direttiva 2006/48/KE rispettivament;

(b) impriza tal-assigurazzjoni, jew impriza tar-rijassigurazzjoni jew kumpannija holding tal-assigurazzjoni fil-kuntest tat-tifsir tal-Artikolu 212(1)(f) tad-Direttiva Solvibilità II;

(ċ) ditta ta' investment jew istituzzjoni finanzjarja fil-kuntest tat-tifsir tal-Artikolu 4(1)(1) tad-Direttiva 2004/39/KE; jew

(d) kumpannija holding finanzjarja mħallta fil-kuntest tat-tifsir tal-Artikolu 2(15) tad-Direttiva 2002/87/KE;"

(xvii) minnufih wara t-tifsira ġdida "impriza finanzjarja", għandha tiżdied din it-tifsira ġdida li ġejja:

"impriza parteċipanti" tfisser impriza li jew tkun impriza *parent* jew impriza oħra li jkollha parteċipazzjoni, jew impriza marbuta ma' impriza oħra permezz ta' relazzjoni kif stipulat fl-Artikolu 22 tad-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji kkonsolidati u r-rapporti relatati ta' ċertu tipi ta' imprizi, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE;"

(xviii) minflok it-tifsira "impriza tal-assigurazzjoni Ewropea", għandha tidhol din it-tifsira ġdida li ġejja:

"impriza tal-assigurazzjoni Ewropea" tfisser impriza li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, li tmexxi l-kummerċ tal-assigurazzjoni diretta fil-

kuntest tat-tifsira tal-Artikolu 2 tad-Direttiva Solvibbilità II, li tkun irċeviet awtorizzazzjoni skont l-Artikolu 14 tad-Direttiva Solvibbilità II;"

(xix) minnufih wara t-tifsira "impriża tal-assigurazzjoni Ewropea" għandha tiżdied it-tifsira ġdida li ġejja:

" "impriża tal-assigurazzjoni awtorizzata" tfisser impriża, li tkun irċeviet awtorizzazzjoni konformement mal-artikolu 7 biex tmexxi kummerċ ġenerali dirett u, jew kummerċ fit-tul, u tinkludi impriża li tkun awtorizzata tmexxi kummerċ dirett u ta' rijassigurazzjoni;"

(xx) minnufih wara t-tifsira ġdida "impriża tal-assigurazzjoni awtorizzata" għandha tiżdied it-tifsira ġdida li ġejja:

" "impriża tal-assigurazzjoni captive" tfisser impriża tal-assigurazzjoni awtorizzata, li tkun tappartjeni lil impriża finanzjarja li ma tkunx impriża tal-assigurazzjoni jew tar-rijassigurazzjoni jew grupp ta' impriži tal-assigurazzjoni jew tar-rijassigurazzjoni kif imfisser fl-artikolu 2, jew lil impriża mhux finanzjarja, li jkollha l-għan li tipprovdi kopertura ta' assicurazzjoni esklużivament għar-riskji tal-impriża jew impriži li tkun tappartjeni għalihom jew tal-impriża jew impriži tal-grupp li tkun membru tagħhom;"

(xxi) minnufih wara t-tifsira ġdida "impriża tal-assigurazzjoni *captive*", għandha tiżdied it-tifsira ġdida li ġejja:

" "impriża tal-assigurazzjoni ta' pajjiż terz" tfisser impriża, minbarra impriża tal-assigurazzjoni Ewropea, li tkun teħtieġ awtorizzazzjoni bħala impriża tal-assigurazzjoni awtorizzata skont l-artikolu 7 bhallikieku l-uffiċċju prinċipali tagħha kien jinsab f'Malta;"

(xxii) minnufih wara t-tifsira "impriża tal-assigurazzjoni ta' pajjiż terz" għandha tiżdied it-tifsira ġdida li ġejja:

" "impriża tar-rijassigurazzjoni awtorizzata"

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tfisser impriża li tkun irċeviet awtorizzazzjoni konformement mal-artikolu 7 biex tmexxi kummerċ ristrett għar-rijassigurazzjoni;"

(xxiii) minnufih wara t-tifsira ġdida "impriża tar-rijassigurazzjoni awtorizzata" għandha tiżdied it-tifsira ġdida li ġejja:

" "impriża tar-rijassigurazzjoni captive" tfisser impriża tar-rijassigurazzjoni awtorizzata, li tkun tappartjeni lil impriża finanzjarja li ma tkunx impriża tal-assigurazzjoni jew tar-rijassigurazzjoni jew grupp ta' impriži tal-assigurazzjoni jew tar-rijassigurazzjoni kif imfisser fl-artikolu 2, jew lil impriża mhux finanzjarja, li jkollha l-għan li tipprovdi kopertura ta' rijassigurazzjoni esklużivament għar-riskji tal-impriża jew impriži li tkun tappartjeni għalihom jew tal-impriża jew impriži tal-grupp li tkun membru tagħhom;"

(xxiv) minnufih wara t-tifsira ġdida "impriża tar-rijassigurazzjoni *captive*", għandha tiżdied din it-tifsira ġdida li ġejja:

" "impriża tar-rijassigurazzjoni Ewropea" tfisser impriża li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, li tmexxi kummerċ ristrett għar-rijassigurazzjoni fil-kuntest tat-tifsira tal-Artikolu 2 tad-Direttiva Solvibilità II, li tkun irċeviet awtorizzazzjoni skont l-Artikolu 14 tad-Direttiva Solvibilità II;"

(xxv) minnufih wara t-tifsira ġdida "impriża tar-rijassigurazzjoni Ewropea", għandha tiżdied it-tifsira ġdida li ġejja:

"impriża tar-rijassigurazzjoni ta' pajjiż terz" tfisser impriża, minbarra impriża tar-rijassigurazzjoni Ewropea, li tkun teħtieġ awtorizzazzjoni bħala impriża tar-rijassigurazzjoni awtorizzata skont l-artikolu 7 bħallikieku l-uffiċċju prinċipali tagħha kien jinsab f'Malta;"

(xxvi) minnufih wara t-tifsira "impriża tar-rijassigurazzjoni ta' pajjiż terz", għandha tiżdied din it-

tifsira ġdida li ġejja:

Kap. 386. "impriza li l-uffiċċju prinċipali tagħha jkun f'Malta" tfisser kumpannija b'responsabbiltà limitata iffurmata u rreġistrata f'Malta skont l-Att dwar il-Kumpanniji;"

(xxvii) minflok it-tifsira "kontroll", għandha tidhol din it-tifsira ġdida li ġejja:

" "kontroll" tfisser ir-relazzjoni bejn impriza *parent* u impriza sussidjarja, kif stabbilit fl-Artikolu 22 tad-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji konsolidati u r-rapporti relatati ta' ċertu tipi ta' imprizi, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE, jew relazzjoni simili bejn xi persuna fiżika jew ġuridika u impriza;"

(xviii) fit-tifsira "kontrollur", minflok il-kliem "teżerċita kontroll tal-korp ġuridiku", għandhom jidhlu l-kliem "teżerċita s-setgħa li tistabbilixxi l-politika finanzjarja u operattiva tal-korp ġuridiku;"

(xxix) fit-tifsira "korp ġuridiku", minflok il-kliem "distinta minn dik tal-membri tagħha", għandhom jidhlu l-kliem "distinta minn dik tal-membri tagħha, u tinkludi wkoll korporazzjoni barranija";

(xxx) minflok is-subparagrafu (ii) tal-paragrafu (a) fit-tifsira "kummerċ tal-assigurazzjoni", għandu jidhol dan is-subparagrafu ġdid li ġej:

"(ii) kuntratti għal fidi ta' kapital ibbażati fuq kalkolu attwarjali fejn, bi skambju għal ħlasijiet singoli jew perjodiċi maqbula bil-quddiem, jittiehdu impenji ta' żmien u ammont speċifikat;"

(xxxi) it-tifsira "kumpannija" għandha tithassar;

(xxxii) it-tifsira "kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta" għandha tithassar;

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(xxxiii) it-tifsira "kumpanija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta" għandha tithassar;

(xxxiv) minflok it-tifsira "Lloyd's", għandu jidhol dan li ġej:

" "Lloyd's" tfisser is-soċjetà u korporazzjoni mwaqqfa mil-Lloyd's Act, 1871, tar-Renju Unit;"

(xxxv) it-tifsira " "margin ta' solvibbiltà" u "margin ta' solvibbiltà ta' Malta" u "margin ta' solvibbiltà taż-ŻEE" " għandha tithassar;

(xxxvi) minnufih wara t-tifsira "*money laundering*", għandha tiżdied din it-tifsira ġdida li ġejja:

" "*outsourcing*" tfisser arrangament ta' kwalunkwe forma bejn impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata u provditur ta' servizz, sew jekk tkun entità sorveljata sew jekk ma tkunx, li permezz tiegħu dak il-provditur ta' servizz iwettaq proċess, servizz jew attività, sew direttament sew permezz ta' *sub-outsourcing*, fejn li kieku kien xort' oħra kienet titwettaq mill-impriża tal- assicurazzjoni jew tar-rijassigurazzjoni awtorizzata nnifsha, u "*outsource*" għandha tinftiehem f'dan is-sens;"

(xxxvii) it-tifsira "*mutual association*" għandha tithassar;

(xxxviii) minnufih wara t-tifsira "il-pajjiż tar-rabta", għandha tiżdied din it-tifsira ġdida li ġejja:

" "*parteċipazzjoni*" tfisser il-proprjetà, diretta jew permezz ta' kontroll, ta' 20% jew aktar tal-jeddijiet ta' votazzjoni jew tal-kapital ta' impriża;"

(xxxix) minflok it-tifsira "provizjonijiet tekniċi", għandu jidhol dan li ġej:

" "*provizjonijiet tekniċi*" għandha tiftiehem skont l-artikolu 18E;"

(xl) minflok it-tifsira "rabtiet internazzjonali ta' Malta", għandu jidhol dan li ġej:

" "rabtiet internazzjonali ta' Malta" tfisser ir-rabtiet, responsabbiltajiet u obbligi ta' Malta li johorġu minn shubija fl-Unjoni Ewropea u minn shubija, jew affiljazzjoni, jew relazzjoni ma', xi organizzazzjonijiet internazzjonali, globali jew reġjonali jew grupp ta' pajjiżi, jew minn xi trattat, konvenzjoni jew ftehim internazzjonali ieħor, ikun kif ikun imsejjaħ, sew bilaterali sew multilaterali, inklużi l-Memoranda ta' Ftehim, li Malta tkun tagħmel parti minnhom;"

(xli) minnufih wara t-tifsira "rabtiet internazzjonali ta' Malta" għandha tiżdied din it-tifsira ġdida li ġejja:

" "rabtiet mill-qrib" tfisser sitwazzjoni fejn żewġ persuni jew aktar, fiżiċi jew ġuridiċi, jkunu marbutin b'kontroll jew parteċipazzjoni, jew sitwazzjoni fejn żewġ persuni jew aktar, fiżiċi jew ġuridiċi, ikunu marbutin b'mod permanenti ma' waħda u l-istess persuna b'relazzjoni ta' kontroll;"

(xlii) minnufih wara t-tifsira ġdida "rabtiet mill-qrib", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Regolament (UE) Nru. 1094/2010" tirreferi għar-Regolament (UE) Nru. 1094/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità ta' Sorveljanza Ewropea (Awtorità Ewropea dwar Pensjonijiet tal-Assigurazzjoni u tax-Xogħol), li temenda d-Deċiżjoni Nru. 716/2009/KE u tħassar Id-Deċiżjoni tal-Kummissjoni 2009/79/KE;"

(xliii) it-tifsira "regolamenti dwar valutazzjoni" għandha tithassar;

(xliv) minflok it-tifsira "regola dwar l-assigurazzjoni", għandu jidhol dan li ġej:

" "Regoli dwar l-Assigurazzjoni" tfisser ir-regoli fir-rigward tal-kummerċ tal-assigurazzjoni maħruġin mill-awtorità kompetenti taħt diversi artikoli ta' dan l-Att u taħt kull regolamenti magħmulin taħtu;"

(xlv) it-tifsira "reklam" għandha tiġi emendata kif

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ġej:

(aa) minflok il-kliem "tfisser kull xorta ta' riklamar, sew bil-fomm jew bil-miktub", għandhom jidhlu l-kliem "tfisser kull xorta jew mezz ta' riklamar,";

(bb) minflok il-kliem "bil-mezz ta' ittri, ċirkolarijiet, prospetti, katalgi", għandhom jidhlu l-kliem "bil-mezz ta' ittri, ċirkolarijiet, katalgi"; u

(ċċ) minflok il-kliem "bit-tqassim ta' reġistrazzjonijiet jew b'xi mod ieħor, u riferenzi", għandhom jidhlu l-kliem "bit-tqassim ta' reġistrazzjonijiet jew b'kull mod ieħor, li l-kontenut tagħhom jistieden persuni, jew li jkun fihom materjal li jitqies li jhajar persuni jidhlu f'kuntratti ta' assigurazzjoni, u riferenzi";

(xlvi) fil-proviso li hemm mal-paragrafu (b) fit-tifsira "riskju sitwat f'Malta", minflok il-kliem "Izda, fejn il-vettura tiġi trasferita minn Stat Membru", għandhom jidhlu l-kliem "Izda, meta l-vettura bil-mutur tiġi trasferita minn Stat Membru";

(xlvii) minflok it-tifsira "stabbiliment", għandha tidhol din it-tifsira ġdida li ġejja:

" "stabbiliment" tfisser l-uffiċċju prinċipali, jew kull fergħa ta' impriża tal-assigurazzjoni awtorizzata jew ta' impriża tar-rijassigurazzjoni awtorizzata;"

(xlviii) minnufih wara t-tifsira "Stat ŻEE", għandha tiżdied din it-tifsira ġdida li ġejja:

" "suq regolat" tfisser xi waħda minn dawn li ġejjin:

Kap. 345. (a) fil-każ ta' suq li jkun jinsab f'Malta, suq awtorizzat skont l-Att dwar is-Swieq Finanzjarji;

(b) fil-każ ta' suq li jkun jinsab fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, suq regolat kif imfisser fl-Artikolu 4(1)(14) tad-Direttiva 2004/39/KE tal-Parlament Ewropew u

tal-Kunsill tal-21 ta' April 2004 dwar is-swieq fl-istrumenti finanzjarji li temenda d-Direttivi tal-Kunsill 85/611/KEE u 96/6/KEE u d-Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttiva tal-Kunsill 93/22/KEE, kif emendata minn żmien għal żmien; jew

(ċ) fil-każ ta' suq li jinsab fi Stat mhux Membru jew Stat mhux ŻEE, suq finanzjarju li jissodisfa dawn il-kundizzjonijiet li ġejjin:

(i) jiġi rikonoxxut mill-awtorità kompetenti u jissodisfa r-rekwiżiti paragonabbli ma' daww stabbiliti fid-Direttiva 2004/39/KE; u

(ii) l-istrumenti finanzjarji ttrattati f'dak is-suq huma ta' kwalità paragonabbli ma' dik ta' strumenti ttrattati fis-suq regolat jew swieq regolati f'Malta;"

(xlix) fit-tifsira "uffiċjal", minflok il-kliem "dwar kumpannija, tinkludi direttur, soċju," għandhom jidhru l-kliem "dwar impriża, tinkludi direttur,"

(l) it-tifsira "vettura" għandha tithassar;

(li) minnufih wara t-tifsira "vettura", għandha tiżdied din it-tifsira għal li ġejja:

" "vettura bil-mutur" għandha l-istess tifsira kif mogħtija lilha bl-artikolu 2 tal-Ordinanza dwar l-Assigurazzjoni ta' Vetturi bil-Mutur għar-Riskji ta' Terzi Persuni;" u

Kap. 104.

(b) minflok is-subartikolu (2) tiegħu, għandu jidhru dan li ġej:

"(2) L-għan ta' dan l-Att huwa, in parti, biex jittrasponi u jimplementa d-dispożizzjonijiet:

(a) tad-Direttiva Solvibilità II;

(b) tad-Direttiva Omnibus II: Direttiva 2014/51/UE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' April 2014 li temenda d-Direttivi 2003/71/KE u 2009/138/KE u Regolamenti (KE) Nru. 1060/2009, (UE) Nru. 1094/2010 u (UE) Nru.

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1095/2010 fir-rigward tas-setgħat tal-Awtorità Supervizorja Ewropea (Awtorità Ewropea tal-Assigurazzjoni u l-Pensjonijiet tax-Xogħol) u tal-Awtorità Supervizorja Ewropea (Awtorità Ewropea tat-Titoli u s-Swieq);

(ċ) tad-Direttiva 2009/103/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Settembru 2009, dwar l-assigurazzjoni kontra r-responsabbiltà ċivili fir-rigward tal-użu ta' vetturi bil-mutur, u l-infurzar tal-obbligu ta' assicurazzjoni kontra din ir-responsabbiltà; u

(d) ta' kull Direttiva oħra u Regolament ieħor tal-Unjoni Ewropea li jistgħu jinħarġu u jiġu emendati minn żmien għal żmien dwar ir-regolamentazzjoni u htigiet prudenzjali li japplikaw għall-imprizi tal-assigurazzjoni u tar-rijassigurazzjoni,

u konsegwentement dan l-Att u kull regolament u Regoli dwar l-Assigurazzjoni maħruġin taħtu għandhom jiġu interpretati u applikati bl-istess mod."

Emenda tal-artikolu 3 tal-Att prinċipali.

5. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem "b'dan l-Att jew taħtu u li tiżgura li persuni awtorizzati li jwettqu l-kummerċ tal-assigurazzjoni", għandhom jidhlu l-kliem "b'dan l-Att u b'kull regolament jew Regoli dwar l-Assigurazzjoni magħmulin taħtu u li tiżgura li imprizi tal-assigurazzjoni u tar-rijassigurazzjoni li jwettqu l-kummerċ tal-assigurazzjoni"; u

(b) minflok il-kliem "ma' kull regola dwar l-assigurazzjoni magħmula mill-awtorità kompetenti", għandhom jidhlu l-kliem "ma' kull Regoli dwar l-Assigurazzjoni magħmula u direttivi maħruġa mill-awtorità kompetenti".

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

6. Minflok l-artikolu 4 tal-Att prinċipali, għandu jidhol dan li ġej:

"Setgħat u dmirijiet tal-awtorità kompetenti.

4. (1) Meta tkun qegħda twestaq il-funzjonijiet tagħha taħt dan l-Att, l-awtorità kompetenti għandha, b'mod partikolari, tikkunsidra:

(a) il-harsien ta' persuni assigurati, detenturi ta' polza, benefiċjarji u l-pubbliku generali;

(b) il-harsien tar-reputazzjoni ta' Malta, meta tikkunsidra r-rabtiet internazzjonali ta' Malta; u

(ċ) il-promozzjoni ta' kompetizzjoni u għażla.

(2) L-awtorità kompetenti għandha, fl-eżerċizzju ta' dmirijietha, tikkunsidra l-konverġenza ta' għodod ta' sorveljanza u ta' prattiċi ta' sorveljanza fl-applikazzjoni ta' dan l-Att, u tar-regolamenti u Regoli dwar l-Assigurazzjoni magħmulin tahtu, konformement mad-Direttiva Solvibilità II.

(3) Għall-finijiet tas-subartikolu (2):

(a) l-awtorità kompetenti għandha tiegħu sehem fl-attivitajiet ta' EIOPA;

(b) l-awtorità kompetenti għandha thares il-linji gwida u r-rakkomandazzjonijiet maħruġin mill-EIOPA skont l-Artikolu 16 tar-Regolament (UE) Nru. 1094/2010 u, jekk ma tagħmilx dan, għandha tiddikjara r-raġunijiet għal dan in-nuqqas; u

(ċ) mandati nazzjonali mogħtija lill-awtorità kompetenti m'għandhomx jinibixxu l-qadi ta' dmirijietha taht dan l-Att jew bhala membru tal-EIOPA.

(4) L-awtorità kompetenti tista' tagħmel Regoli dwar l-Assigurazzjoni kif ikun meħtieġ sabiex jinghata effett lil kull waħda mid-dispożizzjonijiet ta' dan l-Att u ta' kull regolament magħmula tahtu. L-awtorità kompetenti tista' temenda jew tirrevoka dawk ir-Regoli dwar l-Assigurazzjoni. Ir-Regoli dwar l-Assigurazzjoni u kull emenda jew revoka li ssirilhom għandhom jiġu uffiċjalment notifikati lill-persuni konċernati.

(5) L-awtorità kompetenti tista' tagħmel dawk ir-Regoli dwar l-Assigurazzjoni kif ikun meħtieġ bl-għan li jiġu implimentati l-linji gwida u r-rakkomandazzjonijiet maħruġin mill-EIOPA taht l-Artikolu 16 tar-Regolament (UE) Nru. 1094/2010, għall-preparazzjoni, introduzzjoni gradwali, u implementazzjoni tad-Direttiva Solvibilità II.

(6) Ir-Regoli dwar l-Assigurazzjoni għandhom ikunu vinkolanti fuq impriži tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati u fuq oħrajn hekk kif jista' jiġi speċifikat fihom."

Emenda tal-artikolu 5 tal-Att prinċipali.

7. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Klassifika ta' kummerċ tal-assigurazzjoni.", għandhom jidhlu l-kliem "Klassifika ta' kummerċ tal-assigurazzjoni u riskji anċillari.";

(b) fis-subartikolu (1) tiegħu, minflok il-kliem "Bla ħsara għad-dispożizzjonijiet tas-subartikoli (5) u (6).", għandhom jidhlu l-kliem "Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2).";

(ċ) minflok is-subartikoli (2), (3) u (4) tiegħu, għandu jidhol dan li ġej:

"(2) Impriża tal-assigurazzjoni awtorizzata li tkun kisbet awtorizzazzjoni għal riskju prinċipali li jappartjeni għal xi klassi waħda jew grupp ta' klassijiet kif speċifikat fit-Tielet Skeda tista' wkoll tassigura riskji inklużi fi klassi oħra fl-Iskeda msemmija mingħajr il-htieġa li tinkiseb awtorizzazzjoni dwar dawk ir-riskji sakemm dawk ir-riskji jkunu jissodisfaw dawn il-kundizzjonijiet kollha li ġejjin:

(a) ikunu konnessi mar-riskju prinċipali;

(b) ikunu jikkonċernaw l-oġġett li jkun kopert taht ir-riskju prinċipali; u

(ċ) ikunu koperti mill-kuntratt li jassigura r-riskju prinċipali.

(3) Minkejja d-dispożizzjonijiet tas-subartikolu (2), ir-riskji inklużi fil-klassijiet 14, 15 u 17 fit-Taqsima I tat-Tielet Skeda m'għandhomx jitqiesu bħala riskji anċillari għal klassijiet oħra:

Iżda, l-assigurazzjoni dwar spejjeż legali kif stipulata fil-klassi 17 tista' titqies bħala riskju anċillari għall-klassi 18, meta jiġu sodisfatti l-kundizzjonijiet stabbiliti fis-subartikolu (2) u xi waħda minn dawn il-kundizzjonijiet li ġejjin:

(a) ir-riskju prinċipali jirrelata biss għall-

assistenza provduta lil persuni li jidhlu f'xi diffikultà waqt li jkunu qeghdin jivvjaġġaw, waqt li jkunu 'l bogħod mid-dar jew mir-residenza abittwali tagħhom; jew

(b) l-assigurazzjoni tkun tikkonċerna kwistjonijiet jew riskji li jinholqu minn, jew b' konnessjoni mal-użu ta' bastimenti li jbaħħru.

(4) Għall-finijiet ta' dan l-artikolu, kuntratt tal-assigurazzjoni għandu jiġi ttrattat bħala li jaqa' fit-Tieni Skeda, minkejja l-fatt li jkun fih dispożizzjonijiet li huma relatati u sussidjarji għal klassi 1 jew 2 tal-kummerċ generali tat-Taqsima I tat-Tielet Skeda li tinsab mal-Att, jekk l-għan ewlieni jkun dak ta' kuntratt li jaqa' fit-Tieni Skeda li tinsab mal-Att u jekk dak il-kuntratt jingħata s-sehh jew jitwettaq minn impriza li tkun awtorizzata taht l-artikolu 7 li tmexxi l-kummerċ fit-tul tal- klassi 1.";

(d) is-subartikoli (5), (6) u (7) tiegħu għandhom jithassru;

(e) is-subartikolu (8) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5);

(f) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid:

(i) minflok il- klijem "permezz ta' regola dwar l-assigurazzjoni li ssir għall-finijiet ta' dan l-artikolu.", għandhom jidhlu l-klijem "permezz ta' Regoli dwar l-Assigurazzjoni li jsiru għall-finijiet ta' dan l-artikolu,"; u

(ii) minflok il-klijem "fir-regola jkun fihom dawk il-kundizzjonijiet jew ikunu jinkludu dawk il-htigiet jew arrangamenti li jistgħu jiġu stabbiliti fir-regola.", għandhom jidhlu l-klijem "fir-Regoli dwar l-Assigurazzjoni, jkun fihom dawk il-kundizzjonijiet jew ikunu jinkludu dawk il-htigiet jew arrangamenti li jistgħu jiġu stabbiliti b'dawk ir-Regoli dwar l-Assigurazzjoni.".

8. L-artikolu 6 tal-Att prinċipali, għandu jiġi emendat kif ġej:

Emenda tal-artikolu 6 tal-Att prinċipali.

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

"(2) Is-subartikolu (1) m'għandux japplika għal impriza tal-assigurazzjoni Ewropea u għal impriza tarrijassigurazzjoni Ewropea li tkun qeghda tistabilixxi fergħa

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jew tipprovdi servizzi f'Malta fl-eżerċizzju ta' dritt Ewropew.";

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

(ċ) is-subartikoli (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament.

Emenda tal-artikolu 7 tal-Att prinċipali.

9. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "tista' tawtorizza kumpannija", għandhom jidhlu l-kliem "tista' tawtorizza impriża";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "fil-każ ta' kumpannija", għandhom jidhlu l-kliem "fil-każ ta' impriża";

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

"(b) fil-każ ta' impriża tal-assigurazzjoni ta' pajjiż terz jew ta' impriża tar-rijassigurazzjoni ta' pajjiż terz, f'Malta jew minn Malta,";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "u kumpannija ma tistax tmexxi", għandhom jidhlu l-kliem "u impriża ma tistax tmexxi";

(ċ) is-subartikoli (3), (4), (5), (6), (7), (8), u (9) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (5), (6), (7), (8), (9) (10) u (12) rispettivament;

(d) minnufih wara s-subartikolu (2) tiegħu, għandhom jizdiedu dawn is-subartikoli ġodda li ġejjin:

"(3) Awtorizzazzjoni maħruġa taht dan l-artikolu tagħti jedd lil impriża li l-uffiċċju prinċipali tagħha jkun f'Malta li tmexxi kummerċ tal-assigurazzjoni fi Stat Membru jew Stat ŻEE, fl-eżerċizzju ta' dritt Ewropew, bla ħsara għan-notifika lill-awtorità kompetenti hekk kif stabbilit skont regolamenti maħruġin taht l-artikolu 64.

(4) Bla ħsara għall-artikolu 5, awtorizzazzjoni taht dan l-artikolu għandha tkun meħtieġa wkoll jekk impriża, li jkollha awtorizzazzjoni biex tmexxi kummerċ

tal-assigurazzjoni jew rijassigurazzjoni f'xi klassi jew klassijiet ta' kummerċ tal-assigurazzjoni, tkun bi hsiebha testendi l-kummerċ tagħha għal xi klassi jew klassijiet ta' kummerċ li ma jkunux dawk il-klassijiet li diġà tkun awtorizzata dwaru.";

(e) fis-subartikolu (5), kif enumerat mill-ġdid, minflok il-kliem "kull kumpannija li tipprovdi dak it-tagħrif", għandhom jidhlu l-kliem "kull impriża li tipprovdi dak it-tagħrif";

(f) is-subartikolu (9), kif enumerat mill-ġdid, għandu jiġi emendat kif ġej:

(i) minflok il-kliem "Bla hsara għas-subartikolu (8)", għandhom jidhlu l-kliem "Bla hsara għas-subartikolu (10)"; u

(ii) minflok il-kliem "fi żmien sitt xhur minn meta tirċievi t-tagħrif meħtieġ li jingħata", għandhom jidhlu l-kliem "fi żmien sitt xhur minn meta tirċievi formola ta' applikazzjoni mimlija kif imiss flimkien mad-dokumentazzjoni neċessarja li tkun meħtieġa li tingħata";

(g) fis-subartikolu (10), kif enumerat mill-ġdid, minflok il-kliem "bis-subartikolu (7)", għandhom jidhlu l-kliem "bis-subartikolu (9)";

(h) minnufih wara s-subartikolu (10) tiegħu, kif enumerat mill-ġdid, għandu jizdied dan is-subartikolu ġdid li ġej:

"(11) L-awtorità kompetenti m'għandhiex tikkunsidra l-htigiet ekonomiċi tas-suq bħala kriterju meta teżamina applikazzjoni għal awtorizzazzjoni.";

(i) minflok is-subartikolu (12) kif enumerat mill-ġdid, għandu jidhlo dan li ġej:

"(12) Meta impriża tinħargilha awtorizzazzjoni taħt dan l-artikolu, kull awtorizzazzjoni li dik l-impriża seta' kellha qabel taħt dan l-artikolu għandha tiskadi."; u

(j) minnufih wara s-subartikolu (12), kif enumerat mill-ġdid, għandu jizdied dan is-subartikolu ġdid li ġej:

"(13) L-awtorità kompetenti għandha tavża lill-EIOPA b'kull awtorizzazzjoni maħruġa skont dan l-artikolu.".

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Emenda tal-
artikolu 8 tal-
Att prinċipali.**10.** Minflok l-artikolu 8 tal-Att prinċipali, għandu jidhol dan li
gej:"Htiġiet għal
awtorizzazzjoni**8.** (1) L-awtorità kompetenti
m'għandhiex toħroġ awtorizzazzjoni taht l-
artikolu 7 kemm-il darba ma tkunx sodisfatta li -(a) applikazzjoni għal
awtorizzazzjoni ssir bil-miktub minn impriża
f'dik il-forma u b'dak il-mod li l-awtorità
kompetenti tista' tistabilixxi minn żmien
għal żmien;(b) (i) fil-każ ta' impriża li jkollha l-
ħsieb li tmexxi kummerċ li mhuwiex ristrett
għar-rijassigurazzjoni, l-għanijiet tal-impriża
huma limitati għall-kummerċ tal-
assigurazzjoni u operazzjonijiet li joriginaw
direttament minnhom, b'eskluzjoni ta' kull
kummerċ ieħor;(ii) fil-każ ta' impriża li jkollha l-
ħsieb li tmexxi kummerċ ristrett għar-
rijassigurazzjoni, l-għanijiet tal-impriża
huma limitati għal kummerċ ta'
rijassigurazzjoni u operazzjonijiet relatati;
dan jista' jinkludi l-funzjoni u attivitajiet ta'
kumpannija *holding* fir-rigward ta'
attivitajiet fis-settur finanzjarju fil-kuntest
tat-tifsir tal-Artikolu 2(8) tad-Direttiva 2002/
87/KE tal-Parlament Ewropew u tal-Kunsill
tas-16 ta' Diċembru 2002 fuq is-supervizjoni
supplementari ta' istituzzjonijiet ta' kreditu,
imprizi tal-assigurazzjoni u ditti ta'
investiment f'konglomerat finanzjarju u li
temenda d-Direttivi tal-Kunsill 73/239/KEE,
79/267/KEE, 92/49/KEE, 92/96/KEE, 93/6/
KEE u 93/22/KEE, u d-Direttivi 98/78/KE
u 2000/12/KE tal-Parlament Ewropew u tal-
Kunsill, kif emendati minn żmien għal
żmien;(ċ) l-impriża tkun żvelat għas-
sodisfazzjon tal-awtorità kompetenti dak it-
tagħrif li l-awtorità kompetenti tkun talbet
minn għandha dwar persuni li, mal-
awtorizzazzjoni tal-impriża, jkollhom xi
interess ta' proprjeta', finanzjarju jew
xort'oħra f'dik l-impriża, jew f'konnessjoni
magħha;

(d) L-impriża tkun żvelat l-identitajiet tal-azzjonisti, diretti jew indiretti, persuni sew fiżiċi sew ġuridiċi, li se jkollhom *holding* kwalifikattiv ta' azzjonijiet f'dik l-impriża u tal-ammonti ta' dawk il-*holdings*;

(e) L-azzjonisti kwalifikattivi kollha, id-diretturi kollha, il-kontrolluri kollha u l-persuni kollha li jkunu effettivament se jiddiriegħu jew imexxu l-kummerċ tal-assigurazzjoni jkunu persuni xierqa u idoneji biex jiżguraw it-tmexxija tal-impriża b'mod tajjeb u prudenti;

(f) L-impriża tkun issottomettiet għas-sodisfazzjon tal-awtorità kompetenti skema ta' operazzjonijiet li għandha tinkludi l-partikolaritajiet jew provi li jistgħu jkunu stabbiliti b'Regoli dwar l-Assigurazzjoni magħmulin għall-fini ta' dan l-artikolu;

(g) L-impriża żżomm l-fondi bażiċi eliġibbli tal-impriża stess sabiex ikopru l-inqas livell assolut tal-Kapital Minimu Rekwizit skont l-artikolu 17;

(h) L-impriża gġib prova li se tkun f'posizzjoni li żżomm l-fondi eliġibbli tal-impriża stess sabiex ikopru l-avvanz tal-Kapital Rekwizit għas-Solvibilità, skont l-artikolu 15;

(i) L-impriża gġib prova li se tkun f'posizzjoni li żżomm l-fondi bażiċi eliġibbli tal-impriża stess sabiex ikopru l-avvanz tal-Kapital Minimu Rekwizit, skont l-artikolu 17;

(j) L-impriża gġib prova li se tkun f'posizzjoni li tikkonforma mas-sistema ta' governanza li hemm provdut dwarha fl-artikolu 18I.

(2) Bla ħsara għall-artikolu 5, impriża li tkun trid tikseb awtorizzazzjoni biex testendi l-kummerċ tal-assigurazzjoni tagħha għal klassijiet oħra jew biex testendi awtorizzazzjoni li tkun tkopri biss ftit mir-riskji li jappartjenu għal klassi waħda għandha tkun meħtieġa li:

(a) tippreżenta skema ta' operazzjonijiet imsemmija fis-subartikolu (1)(f);

(b) ġgib prova li żżomm l-fondi eliġibbli tal-impriza stess li jkunu jkopru l-Kapital Rekwizit għas-Solvibilità u l-Kapital Minimu Rekwizit skont l-artikoli 15 u 17 rispettivament.

(3) L-awtorità kompetenti m'għandhiex toħroġ awtorizzazzjoni taht l-artikolu 7, meta jkunu jeżistu rabtiet mill-qrib bejn impriza li tapplika għal awtorizzazzjoni u xi persuni fiżiċi jew ġuridiċi oħra:

(a) jekk tikkunsidra li dawk ir-rabtiet mill-qrib ifixkluwha milli teżerċita effettivament il-funzjonijiet ta' sorveljanza tagħha; u

(b) jekk tikkunsidra illi l-liġijiet, regolamenti jew dispozizzjonijiet amministrattivi ta' pajjiż terz li jkunu jirregolaw lil xi persuna waħda jew aktar, fiżika jew ġuridika li magħha l-impriza jkollha rabtiet mill-qrib, jew diffikultajiet fl-infurzar ta' dawk il-miżuri, ifixkluwha milli teżerċita effettivament il-funzjonijiet ta' sorveljanza tagħha.

(4) Bil-għan li tiġi żgurata konformità mad-dispożizzjonijiet tas-subartikolu (3)(a), l-awtorità kompetenti għandha teħtieġ illi imprizi tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati jipprovduha kull informazzjoni li tkun teħtieġ biex tissorvelja l-konformità mal-kundizzjonijiet msemmija fis-subartikolu (3)(a) b'mod kontinwu."

Emenda tal-artikolu 9 tal-Att prinċipali.

11. L-artikolu 9 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Bla ħsara għas-subartikoli (2) u (3), l-awtorità kompetenti m'għandhiex, taht l-artikolu 7, tawtorizza impriza li l-uffiċċju prinċipali tagħha jkun f'Malta biex tmexxi kemm kummerċ fit-tul kif ukoll kummerċ ġenerali.";

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

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

"(2) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1) -

(a) impriża tal-assigurazzjoni awtorizzata biex tmexxi kummerċ fit-tul tista' tingħata awtorizzazzjoni biex tmexxi kummerċ ġenerali għar-riskji elenkati fil-klassijiet 1 u 2 tat-Taqsima I tat-Tielet Skeda; jew

(b) impriża tal-assigurazzjoni awtorizzata biss biex tmexxi kummerċ ġenerali tal-assigurazzjoni għar-riskji elenkati fil-klassijiet 1 u 2 tat-Taqsima I tat-Tielet Skeda tista' tingħata awtorizzazzjoni biex tmexxi kummerċ fit-tul; jew

(ċ) impriża tal-assigurazzjoni awtorizzata biss biex tmexxi kummerċ ġenerali tal-assigurazzjoni tista' tingħata awtorizzazzjoni biex tmexxi kummerċ fit-tul ristrett għar-rijassigurazzjoni.";

(d) minflok is-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(3) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (4), id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal impriża li jkollha awtorizzazzjoni biex tmexxi kemm kummerċ fit-tul kif ukoll kummerċ ġenerali taht dan l-Att kif kien fis-seħh minnufih qabel id-dhul fis-seħh ta' dan l-Att.";

(e) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "Kumpannija awtorizzata", għandhom jidhlu l-kliem "Impriża awtorizzata"; u

(f) minnufih wara s-subartikolu (4) tiegħu, kif enumerat mill-ġdid, għandhom jizdedu dawn is-subartikoli ġodda li ġejjin:

"(5) Impriża tal-assigurazzjoni awtorizzata li tmexxi kummerċ fit-tul u li tkun trid tikseb awtorizzazzjoni biex testendi l-kummerċ tagħha għar-riskji elenkati fil-klassijiet 1 jew 2 tat-Taqsima I tat-Tielet Skeda għandha tissottometti prova għas-sodisfazzjon tal-awtorità kompetenti li din:

(a) izzomm il-fondi bażiċi eligibbli tal-

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impriza stess li jkunu jkopru l-inqas livell assolut tal-Kapital Minimu Rekwizit għal imprizi awtorizzati biex imexxu kummerċ fit-tul u l-inqas livell assolut tal-Kapital Minimu Rekwizit għal imprizi awtorizzati biex imexxu kummerċ generali, skont l-artikolu 17;

(b) tintrabat li tkopri l-obbligi finanzjarji minimi li jkopru l-avvanz, stabbiliti skont Regoli dwar l-Assigurazzjoni.

(6) Impriza tal-assigurazzjoni awtorizzata li tmexxi kummerċ generali għar-riskji elenkati fil-klassijiet 1 jew 2 tat-Taqsima 1 tat-Tielet Skeda u li tkun trid tikseb awtorizzazzjoni biex testendi l-kummerċ tagħha għal kummerċ fit-tul għandha tissottometti prova lil awtorità kompetenti li din:

(a) iżzomm il-fondi bażiċi eliġibbli tal-impriza stess li jkunu jkopru l-inqas livell assolut tal-Kapital Minimu Rekwizit għal imprizi awtorizzati biex imexxu kummerċ fit-tul u l-inqas livell assolut tal-Kapital Minimu Rekwizit għal imprizi awtorizzati biex imexxu kummerċ generali, skont l-artikolu 17;

(b) tintrabat li tkopri obbligi finanzjarji minimi li jkopru l-avvanz, stabbiliti skont ir-Regoli dwar l-Assigurazzjoni.

(7) Biex jiġi evitat kull dubju, impriza li l-kummerċ tagħha ristrett għar-rijassigurazzjoni, tista' tingħata awtorizzazzjoni biex tmexxi kemm kummerċ generali kif ukoll kummerċ fit-tul fil-klassijiet kollha ta' kummerċ."

Emenda tal-artikolu 10 tal-Att prinċipali.

12. L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) L-awtorità kompetenti m'għandhiex toħroġ awtorizzazzjoni taht l-artikolu 7 lil impriza li l-uffiċċju prinċipali tagħha jkun f'Malta, lanqas m'għandha l-awtorità kompetenti tippermetti lil impriza bħal dik li iżzomm awtorizzazzjoni maħruġa bis-saħħa tiegħu, kemm-il darba ma tkunx sodisfatta li l-impriza tkun wettqet jew

harset il-htigiet tal-artikolu 8 u, meta jkun adatt, tal-artikolu 9.";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "Kumpannija awtorizzata", għandhom jidhlu l-kliem "Impriża awtorizzata"; u

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

"(3) Hlief bil-kunsens bil-miktub tal-awtorità kompetenti, ebda impriża awtorizzata kif imsemmi qabel m'għandha la tmexxi, lanqas tipprezenta ruħha bħala li qeghda tmexxi kummerċ tal-assigurazzjoni f'pajjiż jew minn pajjiż barra minn Malta jew tiftaħ fergħa, aġenzija jew uffiċċju jew tistabilixxi jew takkwista xi sussidjarja f'xi pajjiż barra minn Malta."

13. Minflok l-artikolu 11 tal-Att prinċipali, għandu jidhol dan li ġej:

Sostituzzjoni tal-artikolu 11 tal-Att prinċipali.

"Applikanti li jkollhom l-uffiċċju prinċipali tagħhom barra minn Malta.

11. (1) L-awtorità kompetenti m'għandhiex toħroġ awtorizzazzjoni taħt l-artikolu 7 lil impriża tal-assigurazzjoni ta' pajjiż terz jew impriża tar-rijassigurazzjoni ta' pajjiż terz, lanqas m'għandha l-awtorità kompetenti tippermetti lil impriża bħal dik li żzomm awtorizzazzjoni maħruġa bis-saħħa tiegħu, kemm-il darba l-impriża -

(a) ma jkollhiex permess fil-pajjiż fejn jinsab l-uffiċċju prinċipali tagħha biex tmexxi l-kummerċ tal-assigurazzjoni li jiffirma l-għan tal-applikazzjoni;

(b) ma jkollhiex f'Malta f'kull żmien:

(i) rappreżentant ġenerali li jwettaq il-htigiet tal-artikolu 12; u

(ii) fergħa;

(ċ) ma timpenjax ruħha li twaqqaf fil-post ta' manigġ tal-fergħa, kontijiet speċifiċi għall-kummerċ tal-assigurazzjoni li tkun qeghda tmexxi f'Malta, u li żzomm hemmhekk kull reġistrazzjoni li jkollha x'taqsam mal-kummerċ li tmexxi;

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(d) ma tintrabatx li tkopri l-Kapital Rekwizit għas-Solvibilità u l-Kapital Minimu Rekwizit skont il-htigiet imsemmija fl-artikoli 15 u 17;

(e) ma tissottomettix skema ta' operazzjonijiet skont l-artikolu 8(1)(f); u

(f) ma twettaqx il-htigiet ta' governanza skont l-artikolu 18I.

(2) Dwar fergħa ta' impriza tal-assigurazzjoni ta' pajjiż terz jew impriza tar-rijassigurazzjoni ta' pajjiż terz, il-kummerċ tal-assigurazzjoni għandu jitmexxa taħt il-ġestjoni ta' persuna li tissodisfa dawn il-htigiet li ġejjin ta' dan is-subartikolu:

(a) il-persuna għandha tkun individwu residenti f'Malta jew *manager* fl-assigurazzjoni li jkun ġie nominat mill-impriza għall-fini ta' dan l-artikolu;

(b) il-persuna m'għandhiex tkun l-uditor approvat, jew soċju jew impjegat tal-uditor approvat, tal-impriza;

(c) il-persuna jkollha l-kwalifiki u twettaq jew thares il-htigiet stabbiliti b'Regoli dwar l-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu; u

(d) il-persuna tkun xierqa u idonea biex tiżgura t-tmexxija b'mod tajjeb u prudenti.

(3) Impriza tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz għandha tkun meħtieġa li:

(a) tistabbilixxi proviżjonijiet tekniċi adegwati biex ikopru l-obbligi tal-assigurazzjoni u tar-rijassigurazzjoni li joriġinaw mill-kummerċ immexxi mill-fergħa f'Malta, meqjusa skont ir-Regoli dwar l-Assigurazzjoni; u

(b) tevalwa l-attiv u l-passiv u tistabbilixxi fondi tal-impriza stess skont ir-Regoli dwar l-Assigurazzjoni.

(4) Impriża tal-assigurazzjoni u tar-rijassigurazzjoni ta' pajjiż terz għandha tkun meħtieġa li żżomm f'Malta f'kull żmien ammont ta' fondi eliġibbli tal-impriża stess li jikkonsistu f'dawk l-elementi li jiġu stabbiliti skont regolamenti magħmulin għall-finijiet tal-Att u li tiddepożita proporzjon speċifikat minn dawk il-fondi tal-impriża stess li jista' jiġi preskritt taht l-artikolu 18G.

(5) (a) Il-fergħat ta' impriži tal-assigurazzjoni ta' pajjiż terz m'għandhomx imexxu simultanjamment kummerċ fit-tul u kummerċ ġenerali f'Malta.

(b) Biex jiġi evitat kull dubju, fergħa ta' impriża tar-rijassigurazzjoni ta' pajjiż terz tista' tingħata awtorizzazzjoni biex tmexxi kummerċ kemm ġenerali kif ukoll kummerċ fit-tul, fil-klassijiet kollha ta' kummerċ, ristretti għar-rijassigurazzjoni.

(6) Għall-finijiet ta' dan l-artikolu, "fergħa" tfisser preżenza permanenti f'Malta ta' impriża tal-assigurazzjoni ta' pajjiż terz jew impriża tar-rijassigurazzjoni ta' pajjiż terz, li tkun irċeviet awtorizzazzjoni f'Malta biex tmexxi kummerċ tal-assigurazzjoni f'Malta.

(7) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu bla ħsara għal kull ftehim konkluż mill-Komunità Ewropea ma' pajjiż terz, wiehed jew iktar, skont l-Artikolu 171 tad-Direttiva Solvibilità II."

14. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 12 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "fl-artikolu 11(1)(d)(i)", għandhom jidhlu l-kliem "fl-artikolu 11(1)(b)(i)";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "nominata bħala r-rappreżentant tal-kumpannija", għandhom jidhlu l-kliem "nominata bħala r-rappreżentant tal-impriża";

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem "f'isem il-kumpannija", għandhom jidhlu l-kliem "f'isem l-impriża";

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(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem "tal-kumpannija", għandhom jidhlu l-kliem "tal-impriza"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "obbligi tal-kumpannija", għandhom jidhlu l-kliem "obbligi tal-impriza".

Sostituzzjoni
tat-Taqsima IV
tal-Att
prinċipali.

15. Minflok it-Taqsima IV tal-Att prinċipali, għandu jidhol dan li ġej:

"TAQSIMA IV

KUNDIZZJONIJIET GĦAT-TMEXXIJA TA' KUMMERĊ TAL-ASSIGURAZZJONI

Titolu I: Htiġiet Finanzjarji

Fondi tal-
imprizi stess tal-
assigurazzjoni u
tar-
rijassigurazzjoni
awtorizzati.

14. (1) Il-fondi ta' impriza stess tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata għandhom jinkludu s-somma tal-fondi bażiċi tal-impriza stess u tal-fondi anċillari tal-impriza stess.

(2) L-ammonti ta' elementi ta' fondi anċillari tal-impriza stess li għandhom jitqiesu meta jkunu qed jiġu stabbiliti l-fondi tal-impriza stess għandhom ikunu soġġetti għall-approvazzjoni minn qabel bil-miktub tal-awtorità kompetenti.

(3) L-awtorità kompetenti għandha tohroġ Regoli dwar l-Assigurazzjoni biex tistabbilixxi l-elementi li jikkostitwixxu l-fondi bażiċi tal-impriza stess u l-fondi anċillari tal-impriza stess, tistabbilixxi x'jikkostitwixxi fondi żejda, tipprovdi dwar il-klassifikazzjoni tal-fondi tal-impriza stess f'livelli u l-eligibbiltà tal-fondi tal-impriza stess, u kull haġa oħra li jkollha x'taqsam ma' dan.

Kapital Rekwizit
għas-
Solvibbiltà.

15. (1) Impriza tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata għandha żżomm fondi eligibbli tal-impriza stess li jkopru l-Kapital Rekwizit għas-Solvibbiltà.

(2) Il-Kapital Rekwizit għas-Solvibbiltà għandu jiġi kkalkulat jew skont il-formula *standard* kif stabbilit fir-Regoli dwar l-Assigurazzjoni jew billi jiġi użat mudell intern, sħiħ jew parzjali, kif approvat mill-awtorità kompetenti. Il-proċess għall-approvazzjoni tal-użu ta' mudell intern għandu jiġi stipulat fir-Regoli dwar l-Assigurazzjoni..

(3) Meta ma jkunx xieraq għal impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata li tikkalkula l-Kapital Rekwizit għas-Solvibilità skont il-formula *standard*, kif stabbilit fir-Regoli dwar l-Assigurazzjoni billi l-profil tar-riskju tal-impriza konċernata jkollu devjazzjoni sinifikanti mis-suppożizzjonijiet sottostanti għall-kalkolu tal-formula *standard*, l-awtorità kompetenti tista', permezz ta' deċiżjoni fejn tgħid x'inhuma r-raġunijiet, tehtieg illi l-impriza konċernata tuża mudell intern biex tikkalkula l-Kapital Rekwizit għas-Solvibilità, jew il-moduli tar-riskju rilevanti tiegħu.

Nuqqas ta' konformità mal-Kapital Rekwizit għas-Solvibilità.

16. (1) Impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata li tonqos milli tikkonforma ruħha mal-artikolu 15 għandha minnufih tgħarraf lill-awtorità kompetenti malli tosserva li l-Kapital Rekwizit għas-Solvibilità ma jkunx għadu qed jithares, jew meta jkun hemm riskju ta' nuqqas ta' konformità fit-tliet xhur sussegwenti.

(2) Fi żmien xahrejn minn meta jiġi osservat in-nuqqas ta' konformità mal-Kapital Rekwizit għas-Solvibilità, l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata għandha tissottometti pjan ta' rkupru realistiku skont ir-Regoli dwar l-Assigurazzjoni maħruġa taħt l-artikolu 18A għall-approvazzjoni tal-awtorità kompetenti.

(3) L-awtorità kompetenti għandha tehtieg lill-impriza konċernata tiegħu l-mizuri meħtieġa sabiex tikseb, fi żmien sitt xhur minn meta jiġi osservat in-nuqqas ta' konformità mal-Kapital Rekwizit għas-Solvibilità, it-twaqqif mill-ġdid tal-livell ta' fondi eliġibbli tal-impriza stess li jkopru l-Kapital Rekwizit għas-Solvibilità jew it-tnaqqis tal-profil tar-riskju tal-impriza sabiex tiġi żgurata l-konformità mal-Kapital Rekwizit għas-Solvibilità.

(4) L-awtorità kompetenti tista', jekk ikun xieraq, ittawwal dak il-perjodu bi tlett xhur.

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(5) L-awtorità kompetenti tista' tohrog Regoli dwar l-Assigurazzjoni biex tistabilixxi ċ-ċirkostanzi li fihom jista' jiġi estiż iż-żmien imsemmi fis-subartikolu (4) u l-htigiet li għandhom jiġiharsu mill-impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati f'dawk iċ-ċirkostanzi.

(6) F'ċirkostanzi eċċezzjonali, meta l-awtorità kompetenti tkun tal-fehma li s-sitwazzjoni finanzjarja tal-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata konċernata tkun se tiddeterjora aktar, hija tista' wkoll tirrestringi jew tipprojbixxi d-disponiment hieles tal-attiv ta' dik l-impriża.

(7) Meta l-awtorità kompetenti tiddeċiedi li tirrestringi jew tipprojbixxi d-disponiment hieles tal-attiv ta' dik l-impriża, hija għandha tgħarraf lill-awtoritajiet regolatorji Ewropej tal-Istati Membri ospitanti jew lill-awtoritajiet regolatorji barranin b'kull miżura li tkun haċet. L-awtorità kompetenti tista' titlob lil dawk l-awtoritajiet involuti biex jieħdu l-istess miżuri, u għandha ssemmi liema attiv ikun kopert minn dawk il-miżuri.

Kapital Minimu
Rekwizit.

17. (1) Impriża tal-assigurazzjoni u tar-rijassigurazzjoni għandha żżomm fondi bażiċi eliġibbli tal-impriża stess li jkunu jkopru l-Kapital Minimu Rekwizit.

(2) Il-Kapital Minimu Rekwizit għandu jiġi kkalkulat skont ir-Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet ta' dan l-artikolu, u m'għandux ikun inqas mill-ammonti (l-inqas livell assolut) kif stabbiliti bir-Regoli dwar l-Assigurazzjoni msemmija.

Nuqqas ta'
konformità mal-
Kapital Minimu
Rekwizit.

18. (1) Impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata li tonqos milli tikkonforma ruħha mal-artikolu 17 għandha minnufih tgħarraf lill-awtorità kompetenti meta hija tosserva li l-Kapital Minimu Rekwizit ma jkunx għadu qiegħed jiġihares jew meta jkun hemm riskju ta' nuqqas ta' konformità fit-tliet xhur sussegwenti.

(2) Fi żmien xahar minn meta jiġi osservat nuqqas ta' konformità mal-Kapital Minimu Rekwizit, l-impriża konċernata għandha tissottometti, għall-approvazzjoni tal-awtorità kompetenti, skema realistika ta' finanzjament għal żmien qasir, skont ir-Regoli dwar l-Assigurazzjoni maħruġa taħt l-artikolu 18A, biex jiġu ristawrati, fi żmien tliet xhur minn dik l-osservazzjoni, il-fondi bażiċi eliġibbli tal-impriża stess, mill-inqas għall-livell tal-Kapital Minimu Rekwizit jew biex jitnaqqas il-profil tar-riskju tiegħu sabiex tiġi żgurata l-konformità mal-Kapital Minimu Rekwizit.

(3) L-awtorità kompetenti tista' wkoll tirrestringi jew tipprojbixxi d-disponiment hieles tal-attiv tal-impriża konċernata.

(4) Meta l-awtorità kompetenti tiddeciedi li tirrestringi jew tipprojbixxi d-disponiment hieles tal-attiv tal-impriża konċernata involuta, hija għandha tgħarraf lill-awtoritajiet regolatorji Ewropej tal-Istat Membru ospitanti jew lill-awtoritajiet regolatorji barranin b'kull miżura li tkun hadet. L-awtorità kompetenti tista' titlob lil dawk l-awtoritajiet involuti biex jieħdu l-istess miżuri, u għandha ssemmi liema attiv ikun kopert minn dawk il-miżuri.

Pjan ta' rkupru u skema ta' finanzjament.

18A. Il-partikolaritajiet li għandhom jiġu provduti fil-pjan ta' rkupru u fl-iskema ta' finanzjament meħtieġa li jiġu sottomessi konformement mal-artikoli 16 u 18 għandhom jiġu stabbiliti b'Regoli dwar l-Assigurazzjoni.

Proċeduri ta' identifikazzjoni u ta' notifika.

18B. Impriża tal-assigurazzjoni jew tar-risassigurazzjoni awtorizzata għandu jkollha l-proċeduri tagħha lesti, inkluż l-użu ta' indikaturi li jagħtu twissija bikrija, biex jidentifikaw id-deterjorament ta' kondizzjonijiet finanzjarji u għandha minnufih tavża lill-awtorità kompetenti meta jseħh deterjorament bħal dak.

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Setgħat tal-awtorità kompetenti fid-deterjorament ta' kondizzjonijiet finanzjarji.

18Ċ. (1) Minkejja d-dispożizzjonijiet tal-artikoli 16 u 18 u bla ħsara għal xi miżura li tista' tittiehed mill-awtorità kompetenti konformement mal-artikolu 28, meta l-pożizzjoni ta' solvibilità tal-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tkompli tiddeterjora, l-awtorità kompetenti jkollha s-setgħa li tiegħu kull miżura meħtieġa biex tissalvagwardja l-interessi ta' detenturi ta' polza, fil-każ ta' kuntratti tal-assigurazzjoni, jew tal-obbligi li joħroġu minn kuntratti ta' rijassigurazzjoni.

(2) Meta tkun qed tikkunsidra l-miżuri li għandhom jittiehdu, l-awtorità kompetenti għandha tqis il-livell u għal kemm żmien id-deterjorament tal-pożizzjoni ta' solvibilità tal-impriża konċernata.

Valutazzjoni tal-attiv u l-passiv.

18D. Impriži tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati għandhom jivvalutaw l-attiv u l-passiv tagħhom skont ir-Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet ta' dan l-Att.

Proviżjonijiet tekniċi.

18E. (1) Impriži tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati għandhom jistabbilixxu u jzommu proviżjonijiet tekniċi fir-rigward tal-obbligi ta' assicurazzjoni u tar-rijassigurazzjoni kollha tagħhom lejn detenturi ta' polza u persuni assicurati ta' kuntratti tal-assigurazzjoni jew tar-rijassigurazzjoni.

(2) Il-valur u l-kalkolu ta' proviżjonijiet tekniċi għandhom jigu stabbiliti skont ir-Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet ta' dan l-artikolu.

(3) Bla ħsara għal kull haġa li tinsab f'xi disposizzjoni oħra taħt l-Att, l-awtorità kompetenti tista', kull meta tqis li jkun hekk neċessarju, teħtieġ lill-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata konċernata biex turi kemm ikun xieraq il-livell tal-proviżjonijiet tekniċi tal-impriża, kif ukoll l-applikabilità u r-rilevanza tal-metodi applikati, u l-adegwatezza tal-informazzjoni statistika sottostanti użata.

(4) Sal-limitu li l-kalkolu ta' proviżjonijiet tekniċi ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ma jkunx konformi mar-Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet ta' dan l-artikolu, l-awtorità kompetenti tista' teħtieg lill-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni konċernata żżid l-ammont ta' proviżjonijiet tekniċi biex dawn ikunu jikkorrispondu mal-livell stabbilit b'dawk ir-Regoli dwar l-Assigurazzjoni.

(5) Meta impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tonqos milli tikkonforma ruħha mad-dispożizzjonijiet ta' dan l-artikolu, l-awtorità kompetenti tista' tipprojbixxi d-disponiment hieles tal-attiv tagħha wara li tkun ikkomunikat xi tkun bi hsiebha tagħmel lill-awtorità regolatorja Ewropea tal-Istat Membru ospitanti jew lill-awtorità regolatorja barranija. L-awtorità kompetenti għandha ssemmi liema attiv ikun kopert minn dawk il-miżuri.

Rapport fuq is-solvibilità u l-kondizzjoni finanzjarja.

18F. (1) Bla hsara għall-informazzjoni li għandha tiġi sottomessa lill-awtorità kompetenti konformement mal-artikolu 32, impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata li l-uffiċċju prinċipali tagħha jkun f'Malta għandha tiżvela pubblikament, ta' kull sena, rapport fuq is-solvibilità u l-kondizzjoni finanzjarja tal-impriża. Ir-rapport għandu jkun fih l-informazzjoni stabbilita b'Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet ta' dan l-artikolu.

(2) L-awtorità kompetenti għandha, meta ssirilha talba bil-miktub minn impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata, tippermetti lil impriża biex ma tiżvelax informazzjoni meta:

(a) bl-iżvelar ta' dik l-informazzjoni, il-kompetituri tal-impriża konċernata kieku jiksbu vantaġġ sinifikanti mhux dovut;

(b) jkun hemm obbligi lejn detenturi ta' polza jew relazzjonijiet ma' kontropartijiet oħra li jorbtu lill-impriża konċernata b'segretezza jew kunfidenzjalità.

(3) Meta n-nuqqas ta' żvelar ta' informazzjoni jkun permess mill-awtorità kompetenti, l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata konċernata għandha tagħmel dikjarazzjoni f'dan is-sens fir-rapport tagħha dwar is-solvibilità u l-kondizzjoni finanzjarja filwaqt li tagħti r-raġunijiet għal dan.

(4) L-awtorità kompetenti għandha tippermetti lil impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tuża' jew tagħmel referenza għal xi żvelar pubbliku magħmul taht htigiet oħra legali jew regolatorji, sal-limitu li dak l-iżvelar ikun ekwivalenti għall-informazzjoni meħtieġa li tiġi sottomessa taht is-subartikolu (1) kemm fix-xorta u kemm fl-iskop tiegħu.

(5) Meta ma tibqax teżisti r-raġuni għannuqqas ta' żvelar permess li jkun inkiseb konformement mas-subartikolu (2) l-impriża konċernata għandha tgharraf lill-awtorità kompetenti bla ebda dewmien u dik l-impriża għandha tikkonforma ruħha mal-obbligi li joriġinaw taht is-subartikolu (1).

(6) Fil-każ ta' xi żvilupp kbir li jolqot b'mod sinifikanti r-rilevanza tal-informazzjoni żvelata skont dan l-artikolu, impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata għandha tiżvela informazzjoni xierqa dwar ix-xorta u l-effetti ta' dak l-iżvilupp kbir. Iċ-ċirkostanzi kkunsidrati bħala żviluppi kbar u kull żvelar li għandu jsir mill-impriża f'dawk iċ-ċirkostanzi għandhom jiġu stabbiliti minn Regoli dwar l-Assigurazzjoni.

(7) Impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata tista' tiżvela, fuq bazi volontarja, kull informazzjoni jew spjegazzjoni li jkollha x'taqsam mas-solvibilità u mal-kondizzjoni finanzjarja tagħha li mhux diġà meħtieġa li tiġi żvelata skont dan l-artikolu.

Kustodja tal-attiv
li hu mehtieg li
jinzamm
f'Malta.

18G. (1) L-awtorità kompetenti tista', dwar attiv li impriza jehtigilha b'dan l-Att jew tahtu li zzomm f'Malta, timponi htiega addizzjonali li l-attiv kollu jew proporzjon speċifikat tieghu jkun depożitat u miżmum f'kustodja akkont tal-impriza minn persuna hekk kif jista' jigi preskritt b'regolamenti magħmula għall-finijiet ta' dan l-artikolu kemm-il darba dik il-htiega ma tkunx xort'oħra imposta b'xi disposizzjoni oħra ta' dan l-Att; u l-awtorità kompetenti għandha f'kull żmien ikollha d-dritt li titlob minghand dik il-persuna dik l-informazzjoni li tista' tehtieg biex tiżgura li d-dispożizzjonijiet ta' dan l-artikolu qed jiġu mharsa.

(2) Kull htiega b'dan l-Att jew tahtu li l-attiv ta' kull xorta jew ammont għandu jinzamm f'Malta tkun sodisfatta jekk dak l-attiv jinzamm f'dak il-pajjiż barra minn Malta u f'dik il-forma u b'dak il-mod għas-sodisfazzjon tal-awtorità kompetenti bla ħsara għal dawk ir-regolamenti li jistgħu jiġu preskritti għal dak il-fini taht dan l-Att.

(3) Kull disposizzjoni b'dan l-Att jew tahtu li tehtieg li impriza zzomm f'Malta attiv ta' kull xorta jew ammont tista' tigi sodisfatta mill-impriza jekk l-impriza ġgib rahan f'forma u b'mod għas-sodisfazzjon tal-awtorità kompetenti bla ħsara għal dawk ir-regolamenti li jistgħu jiġu preskritti għal dak il-fini taht dan l-Att.

(4) L-attiv mehtieg li jinzamm f'Malta b'dan l-Att jew tahtu m'għandux jigi trasferit, irtirat jew b'xi mod jitgħabba b'xi piż mingħajr il-permess tal-awtorità kompetenti mogħti bil-miktub jew sakemm l-impriza tkun waqfet milli tmexxi l-kummerċ li hi kienet awtorizzata li tmexxi u ġgib prova għas-sodisfazzjon tal-awtorità kompetenti li ma fadlilhiex passiv iehor. Dak l-attiv m'għandux jkun sekwestrabbli minn ebda qorti.

Titolu II: Sistemi ta' Governanza

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Responsabbiltà
tal-Bord tad-
Diretturi.

18H. Il-Bord tad-Diretturi ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata għandu jkollu r-responsabbiltà ahharija għal konformità mill-impriza konċernata mal-Att, regolamenti, u Regoli dwar l-Assigurazzjoni mahruġin tahtu, inkluż kull obbligu ieħor konformement mad-Direttiva Solvibilità II.

Sistema ta'
governanza.

18I. (1) L-imprizi tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati għandu jkollhom stabbilita sistema ta' governanza effettiva li tipprovdi għat-tmexxija tal-kummerċ tal-impriza b'mod tajjeb u prudenti. Il-htigiet tas-sistema ta' governanza għandhom ikunu stabbiliti fir-Regoli dwar l-Assigurazzjoni.

(2) Impriza tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata għandha:

(a) tiżgura li l-persuni kollha li effettivament imexxu l-impriza jew li jkollhom funzjonijiet prinċipali oħra jkunu, f'kull waqt, jissodisfaw il-kriterji ta' persuni xierqa u idonei;

(b) jkollha stabbilita sistema effettiva ta' maniġġar ta' riskji, inkluża funzjoni ta' maniġġar ta' riskji;

(ċ) bħala parti mis-sistema ta' maniġġar ta' riskji tagħha, tmexxi l-valutazzjoni tar-riskju u tas-solvibilità tagħha stess;

(d) jkollha sistema effettiva ta' kontroll intern, li tinkludi funzjoni ta' konformità;

(e) tipprovdi għal funzjoni effettiva ta' verifika interna ta' awditjar;

(f) tipprovdi għal funzjoni attwarja effettiva;

(g) jekk tagħmel *outsourcing* ta' xi funzjoni tagħha jew ta' xi attività ta' assicurazzjoni jew tar-rijassigurazzjoni, tibqa' għal kollox responsabbli biex twettaq l-obbligi tagħha kollha taht dan l-Att.

(3) Is-sistemi u l-funzjonijiet imsemmija fis-subartikolu (2) għandhom jiġu stabbiliti b'Regoli dwar l-Assigurazzjoni.

(4) Is-sistema ta' governanza għandha tkun proporzjonata max-xorta, id-daqs u l-kompleksità tal-operazzjonijiet tal-impriza tal-assigurazzjoni jew tar-riassigurazzjoni awtorizzata."

16. L-artikolu 19 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 19 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Sena finanzjarja ta' kumpannija awtorizzata.", għandhom jidhlu l-kliem "Sena finanzjarja ta' imprizi awtorizzati.";

(b) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Kull impriza li l-uffiċċju prinċipali tagħha jkun f'Malta li tkun qegħda tapplika għal awtorizzazzjoni taħt l-artikolu 7 ta' dan l-Att biex tmexxi kummerċ tal-assigurazzjoni f'Malta jew minn Malta għandha tavża bil-miktub lill-awtorità kompetenti bis-sena finanzjarja tagħha; u, fin-nuqqas ta' dak l-avviż, is-sena finanzjarja tal-impriza għandha tintemm fil-wieħed u tletin ta' Diċembru ta' kull sena.";

(ċ) fis-subartikolu (2) tiegħu, minflok il-kliem "Ebda kumpannija kif intqal qabel", għandhom jidhlu l-kliem "Ebda impriza kif imsemmi qabel";

(d) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "Kull kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "Kull impriza tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz";

(ii) minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza awtorizzata";

(e) fis-subartikolu (4) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza awtorizzata"; u

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

"(b) dwar impriza tal-assigurazzjoni jew

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tar-riassigurazzjoni ta' pajjiż terz, tfisser perijodu ta' kontijiet kif miftiehem skont id-dispożizzjonijiet tal-ligijiet tal-pajjiż fejn l-uffiċċju prinċipali tal-impriza jkun sitwat li jirregolaw il-perijodu tal-kontijiet ta' dawk l-imprizi."

Emenda tal-artikolu 20 tal-Att prinċipali.

17. L-artikolu 20 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "kull kumpannija awtorizzata taht dan l-Att għandha, mhux aktar tard minn sitt xhur mill-egħluq tas-sena finanzjarja", għandhom jidhlu l-kliem "kull impriza awtorizzata taht dan l-Att għandha, fiż-żmien stipulat bir-regolamenti magħmula jew Regoli dwar l-Assigurazzjoni mahruġa taht l-artikolu 32, jew f'kull żmien ieħor kif jista' jiġi awtorizzat bil-miktub mill-awtorità kompetenti -";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "lill-awtorità kompetenti;", għandhom jidhlu l-kliem "lill-awtorità kompetenti; u";

(iii) il-paragrafu (b) tiegħu għandu jithassar;

(iv) il-paragrafu (ċ) tiegħu għandu jiġi enumerat mill-ġdid bhala l-paragrafu (b); u

(v) minflok is-subparagrafi (i) u (ii) tiegħu, għandu jidhol dan li ġej:

"(i) fil-każ ta' impriza li jkollha l-uffiċċju prinċipali tagħha f'Malta, skont ir-Regoli dwar l-Assigurazzjoni magħmulin għall-għanijiet ta' dan l-artikolu; u

(ii) fil-każ ta' impriza tal-assigurazzjoni jew tar-riassigurazzjoni ta' pajjiż terz, skont id-dispożizzjonijiet tal-ligijiet tal-pajjiż fejn ikun jinsab l-uffiċċju prinċipali tal-impriza li jirregolaw id-dikjarazzjonijiet finanzjarji ta' dawk l-imprizi.";

(b) fis-subartikolu (1A) tiegħu:

(i) minflok il-kliem "F'kull wieħed mill-każijiet imsemmija fis-subartikolu (1)(i) u (ii) il-kumpannija għandha ttipprovdi", għandhom jidhlu l-kliem "L-impriza

għandha tipprovdi"; u

(ii) fil-proviso tiegħu, minflok il-kliem "Izda l-kumpannija", għandhom jidhlu l-kliem "Izda l-impriza";

(ċ) is-subartikolu (2) tiegħu għandu jithassar;

(d) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2);

(e) fis-subartikolu (2) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "Fil-każ ta' kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta, is-subartikolu (1)(ċ) għandu japplika dwar l-uffiċċji, l-aġenziji u l-fergħat tal-kumpannija", għandhom jidhlu l-kliem "Fil-każ ta' impriza li l-uffiċċju prinċipali tagħha jkun f'Malta, is-subartikolu (1)(b) għandu japplika dwar l-uffiċċji, l-aġenziji u l-fergħat tal-impriza"; u

(f) minnufih wara s-subartikolu (2) tiegħu, kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(3) Id-dikjarazzjonijiet finanzjarji verifikati għandhom jiġu maħruġa u ppubblikati b'dak il-mod u f'dik il-forma hekk kif jista' jiġi speċifikat f'Regoli dwar l-Assigurazzjoni."

18. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 21 tal-Att prinċipali.

(a) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Kull impriza awtorizzata taht dan l-Att għandha ta' kull sena tahtar uditur approvat bħala uditur tal-impriza li jkollu d-dmir li jirrapporta dwar id-dikjarazzjonijiet finanzjarji tal-impriza eżaminata minnu u dwar id-dikjarazzjonijiet finanzjarji mhejjija mill-impriza.";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "Jekk kumpannija awtorizzata tonqos", għandhom jidhlu l-kliem "Jekk impriza awtorizzata tonqos"; u

(ii) minflok il-kliem "għal dik il-kumpannija u għandha tistabbilixxi l-kumpens li għandu jithallas minn dik il-kumpannija", għandhom jidhlu l-kliem "għal dik l-

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impriza u għandha tistabbilixxi l-kumpens li għandu jithallas minn dik l-impriza";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "u ta' kull regola dwar l-assigurazzjoni", għandhom jidhlu l-kliem "u ta' Regoli dwar l-Assigurazzjoni"; u

(ii) minflok il-kliem "dwar il-kumpannija", għandhom jidhlu l-kliem "dwar l-impriza";

(d) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "uditor ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "uditor ta' impriza awtorizzata"; u

(ii) minflok il-kliem "li jkollha haatra minn, dik il-kumpannija.", għandhom jidhlu l-kliem "li jkollha haatra minn, dik l-impriza.";

(e) fis-subartikolu (6) tiegħu:

(i) minflok il-kliem "Kumpannija awtorizzata", għandhom jidhlu l-kliem "Impriza awtorizzata"; u

(ii) minflok il-kliem "quddiem il-laqgħa ġenerali annwali tal-kumpannija", għandhom jidhlu l-kliem "quddiem il-laqgħa ġenerali annwali tal-impriza";

(f) fis-subartikolu (7) tiegħu, minflok il-kliem "il-kumpannija awtorizzata għandha,", għandhom jidhlu l-kliem "l-impriza awtorizzata għandha,";

(g) fis-subartikolu (8) tiegħu, minflok il-kliem "kumpannija awtorizzata biex tibdel", għandhom jidhlu l-kliem "impriza awtorizzata biex tibdel";

(h) fis-subartikolu (9) tiegħu:

(i) minflok il-kliem "lil kumpannija biex tibdel", għandhom jidhlu l-kliem "lil impriza awtorizzata biex tibdel";

(ii) minflok il-kliem "lill-kumpannija", għandhom jidhlu l-kliem "lill-impriza"; u

(iii) minflok il-kliem "mal-kumpannija", għandhom jidhlu l-kliem "mal-impriza";

(i) fis-subartikolu (11) tiegħu, minflok il-kliem "fil-każ ta' kumpannija li l-uffiċċju prinċipali tagħha jinsab f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "fil-każ ta' impriza tal-assigurazzjoni jew tar-riassigurazzjoni ta' pajjiż terz"; u

(j) fis-subartikolu (12) tiegħu, minflok il-kliem "japplikaw għal kumpanniji awtorizzati", għandhom jidhlu l-kliem "japplikaw għal imprizi awtorizzati".

19. L-artikolu 22 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 22 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Ħatra ta' attwarju minn kumpannija li tmexxi kummerċ fit-tul.", għandhom jidhlu l-kliem "Ħatra ta' attwarju minn impriza li tmexxi kummerċ fit-tul.";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "Kull kumpannija awtorizzata taht dan l-Att li tmexxi kummerċ fit-tul għandha -", għandhom jidhlu l-kliem "Kull impriza tal-assigurazzjoni awtorizzata li tmexxi kummerċ fit-tul *with-profits* kif hemm fi klassijiet I u III kif speċifikat fit-Tieni Skeda għandha -"; u

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem, "tal-kumpannija;", għandhom jidhlu l-kliem "tal-impriza biex twettaq il-funzjoni ta' attwarju *with-profits* għal dawk il-klassijiet tal-kummerċ *with-profits* tagħha, (jekk ikun hemm);";

(ċ) fis-subartikolu (2) tiegħu:

(i) minflok il-kelma "Kumpannija", għandha tidhol il-kelma "Impriza"; u

(ii) minflok il-kliem "il-kumpannija għandha,", għandhom jidhlu l-kliem "l-impriza għandha,";

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

"(3) Jekk, malli jgħaddi xi żmien speċifikat fis-subartikolu (1), l-impriza tonqos milli tagħmel il-ħatra

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meħtieġa, l-impriza m'għandhiex twettaq u tmexxi kuntratti godda ta' assigurazzjoni fit-tul għal dawk il-klassijiet speċifikati fis-subartikolu (1) sakemm issir il-ħatra.";

(e) fis-subartikolu (5) tiegħu:

(i) il-paragrafi (a) u (b) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (b) u (ċ) rispettivament;

(ii) minnufih qabel il-paragrafu (b) tiegħu, kif enumerat mill-ġdid, għandu jżied dan il-paragrafu ġdid li ġej:

"(a) ma jkollhiex rwol jew twettaq funzjoni f'isem l-impriza li tista' twassal għal-konflitt ta' interess sinifikanti;"

(iii) minflok il-paragrafu (b) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(b) tkun *Fellow* ta' Istitut ta' Attwarji, jew *Fellow* ta' Fakultà ta' Attwarji, jew li jkollha kwalifiki ta' attwarju ta' livell simili minn istitut ta' reputazzjoni rikonoxxut għal dan l-għan mill-awtorità kompetenti u li jkollha l-kapaċità meħtieġa u esperjenza Prattika adatta biex taqdi l-funzjonijiet tagħha bħala attwarju; u";

(iv) minflok il-paragrafu (ċ) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(ċ) jkollha l-approvazzjoni tal-awtorità kompetenti biex twettaq il-funzjoni ta' attwarju *with-profits* kif stabbilita fl-artikolu 23.".

Emenda tal-artikolu 23 tal-Att prinċipali.

20. L-artikolu 23 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Kumpannija li tmexxi", għandhom jidhlu l-kliem "Impriza li tmexxi";

(b) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Kull impriza tal-assigurazzjoni awtorizzata li

tmexxi kummerè fit-tul *with-profits* fil-klassijiet I u III kif speċifikat fit-Tieni Skeda għandha, mal-gheluq tas-sena finanzjarja tagħha, tehtieg lill-attwarju approvat jipprovdi rapport dwar il-perjodu kopert mir-rapport li jkun jolqot lil dawk il-klassijiet ta' kummerè *with-profits* tal-impriza.";

(è) is-subartikoli (2), (3), (4), (6) u (7) tiegħu għandhom jithassru;

(d) minnufih wara s-subartikolu (1) tiegħu, kif emendat, għandu jizdied dan is-subartikolu ġdid li ġej:

"(2) L-informazzjoni li għanda tiġi provduta fir-rapport għandha tiġi stabbilita b'Regoli dwar l-Assigurazzjoni maħruġa mill-awtorità kompetenti għall-finijiet ta' dan l-artikolu.";

(e) is-subartikoli (5) u (8) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (3) u (4), rispettivament;

(f) minflok is-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(3) Ir-rapport tal-attwarju għandu jintbagħat mill-impriza konċernata lill-awtorità kompetenti, flimkien mad-dikjarazzjonijiet finanzjarji verifikati tal-impriza meħtieġa li jiġu mibgħuta taħt l-artikolu 20.";

(g) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid:

(i) minflok il-kliem "kumpannija li l-uffiċċju prinċipali tagħha jkun qiegħed f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni ta' pajjiż terz"; u

(ii) minflok il-kliem "awtorizzata biex tmexxi kummerè fit-tul, l-awtorità kompetenti tista'", għandhom jidhlu l-kliem "awtorizzata biex tmexxi kummerè fit-tul *with-profits* fil-klassijiet I u III kif speċifikat fit-Tieni Skeda, l-awtorità kompetenti tista'".

21. Minflok l-artikolu 24 tal-Att prinċipali, għandu jidhol dan li ġej:

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

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"Obbligi ta' udituri u attwarji lejn l-awtorità kompetenti.

24. (1) Uditur jew attwarju ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni jew ta' fergħa f'Malta ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz jkollu d-dmir li jirrapporta minnufih lill-awtorità kompetenti kull fatt jew deċiżjoni li tkun tolqot lil dik l-impriza li huwa jsir jaf biha fil-kariga tiegħu ta' uditur jew attwarju ta' xi impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata bħal dik jew ta' xi fergħa bħal dik li jkollha x'taqsam ma' xi kwistjoni li tista' tiġi preskritta jew li x'aktarx twassal għal dan li ġej:

(a) kwalifika serja, jew rifjut tar-rapport tal-uditur fuq il-kontijiet tal-impriza jew tal-fergħa; jew

(b) tfixkil serju tal-ħila tal-impriza li tkompli fil-kummerċ bħala *going concern*; jew

(ċ) ksur materjali tad-dispożizzjonijiet ta' dan l-Att, regolamenti jew Regoli dwar l-Assigurazzjoni li jistipulaw il-kundizzjonijiet li jirregolaw awtorizzazzjoni jew li speċifikament jirregolaw it-tmexxija ta' kummerċ tal-assigurazzjoni minn impriza awtorizzata jew fergħa; jew

(d) nuqqas ta' konformità mal-Kapital Rekwizit għas-Solvibilità; jew

(e) nuqqas ta' konformità mal-Kapital Minimu Rekwizit.

(2) Uditur jew attwarju, kif jista' jkun il-każ, għandu jkollu bl-istess mod id-dmir li jirrapporta lill-awtorità kompetenti kull fatti jew deċiżjonijiet li jsir jaf bihom waqt li jkun qiegħed jaqdi dmirijietu li jkollhom x'jaqsmu ma' jew li jista' ikollhom effett avvers fuq l-assigurat, id-detentur tal-polza jew xi persuna oħra interessata dwar l-impriza jew l-fergħa f'Malta ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz, u li hu jsir jaf bihom fil-kariga tiegħu bħala uditur jew attwarju tal-impriza li jkollha rabtiet mill-qrib ma' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata.

(3) Bla hsara għal kull disposizzjoni li tinsab f'dan l-Att, l-awtorità kompetenti tista' titlob lil uditur jew lil attwarju, skont il-każ, biex jagħtiha dik l-informazzjoni u dokumentazzjoni li jkollha x'taqsam ma' kull fatt jew deċiżjoni kif speċifikat fis-subartikoli (1) jew (2) dwar l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata jew fergħa f'Malta ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz."

22. L-artikolu 25 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 25 tal-Att prinċipali.

(a) minflok il-kliem "jekk il-kumpannija awtorizzata -", għandhom jidhlu l-kliem "jekk l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata -";

(b) il-paragrafu (a) tiegħu għandu jithassar;

(c) il-paragrafu (b), (c) u (d) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafu (a), (b) u (c) rispettivament;

(d) fil-paragrafu (b) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "kumpannija oħra li tmexxi kummerċ", għandhom jidhlu l-kliem "impriża oħra li tmexxi kummerċ"; u

(e) minflok il-paragrafu (c) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(c) tkun impriża tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz, u l-awtorità regolatorja barranija fil-pajjiż ta' registrazzjoni, inkorporazzjoni jew kostituzzjoni tirtira l-awtorizzazzjoni tal-impriża."

23. L-artikolu 26 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 26 tal-Att prinċipali.

(a) fil-paragrafu (a) tiegħu:

(i) minflok il-kliem "jew jekk il-kumpannija awtorizzata tkun ħbiet,", għandhom jidhlu l-kliem "jew jekk l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tkun ħbiet,"; u

(ii) minflok il-kliem "xi regolamenti magħmulin bis-saħħa tiegħu jew xi regola dwar l-assigurazzjoni,";

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għandhom jidhlu l-kliem "xi regolamenti, jew xi Regoli dwar l-Assigurazzjoni magħmulin tahtu;"

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

"(b) l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tiegħi mill-impriża l-kummerċ li għalih tkun ħarġet l-awtorizzazzjoni għal iżjed minn sitt xhur; jew";

(ċ) fil-paragrafu (ċ) tiegħu, minflok il-kliem "il-kumpanija awtorizzata", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(d) fil-paragrafu (d) tiegħu, minflok il-kliem "l-kumpanija awtorizzata ma tkunx tissodisfa", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ma tkunx tissodisfa";

(e) fil-paragrafu (e) tiegħu, minflok il-kliem "li xi ufficjal li effettivament jikkontrolla l-kummerċ li l-kumpanija", għandhom jidhlu l-kliem "li xi direttur, kontrollur u xi persuna oħra li effettivament imexxu l-kummerċ li l-impriza";

(f) fil-paragrafu (f) tiegħu, minflok il-kliem "il-kumpanija awtorizzata", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(g) il-paragrafi (g), (h) u (i) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (h), (j) u (k) rispettivament;

(h) minnufih wara l-paragrafu (f) tiegħu, għandu jidher dan il-paragrafu ġdid li ġej:

"(g) l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ma tibdiex tmexxi l-kummerċ skont l-awtorizzazzjoni fi żmien tmax-il xahar minn meta din tinħareġ; jew";

(i) minflok il-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(h) l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ma tkunx għadha żżomm biżżejjed fondi tal-impriza stess kif stabbilit fl-artikolu 14;

jew";

(j) minnufih wara l-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandu jżied dan il-paragrafu ġdid li ġej:

"(i) l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ma tkunx tikkonforma mal-Kapital Minimu Rekwizit u l-awtorità kompetenti tqis li l-iskema ta' finanzjament sottomessa tkun evidentement inadegwata jew l-impriza konċernata tonqos milli tikkonforma ruħha mal-iskema approvata fi żmien tliet xhur minn meta jiġi osservat nuqqas ta' konformità mal-Kapital Minimu Rekwizit;"

(k) fil-paragrafu (j) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "il-kumpannija awtorizzata", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(l) fil-paragrafu (k) tiegħu, kif enumerat mill-ġdid:

(i) minflok il-kliem "jeżistu bejn il-kumpannija awtorizzata u persuna oħra, rabtiet mill-qrib kif imfisser fl-artikolu 8," għandhom jidhlu l-kliem "jeżistu rabtiet mill-qrib bejn l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata u persuna oħra," u

(ii) minflok il-kliem "biex tinfurzahom.", għandhom jidhlu l-kliem "biex tinfurzahom; jew";

(m) minnufih wara l-paragrafu (k) tiegħu, kif enumerat mill-ġdid, għandu jżied dan il-paragrafu ġdid li ġej:

"(l) xi ċirkostanza li taħtha l-awtorità kompetenti kienet tkun prekluzja milli tohroġ awtorizzazzjoni taht dan l-Att, timmaterjalizza ruħha jew meta taht dan l-Att kien ikollha l-jedd tiċhad il-ħruġ ta' dik l-awtorizzazzjoni.".

24. L-artikolu 27 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 27 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "tagħti avviż bil-miktub lill-kumpannija konċernata", għandhom jidhlu l-kliem "tagħti avviż bil-miktub lill-impriza konċernata";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "għandu jgħid li l-

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kumpannija konċernata", għandhom jidhlu l-kliem "għandu jgħid li l-impriża konċernata"; u

(ii) minflok il-kliem "mhux iktar minn hmistax-il jum)", għandhom jidhlu l-kliem "mhux iktar minn tletin jum)";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "lill-kumpannija konċernata.", għandhom jidhlu l-kliem "lill-impriża konċernata.";

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "mahruġa lil kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "mahruġa lil impriża tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz";

(e) minflok is-subartikolu (5) tiegħu, għandu jidhol dan li ġej:

"(5) Fil-każ ta' sospensjoni jew revoka ta' awtorizzazzjoni ta' impriża li l-uffiċċju prinċipali tagħha jkun f'Malta, l-awtorità kompetenti għandha:

(a) tavża lill-awtoritajiet regolatorji Ewropej b'dan kollu sabiex dawn ikunu jistgħu jiehdu miżuri xierqa biex jipprevjenu l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni milli tibda operazzjonijiet godda fit-territorji tagħhom;

(b) tgħarraf b'dan kollu lill-awtorità regolatorja barranija b'kull stat fejn l-impriża jew is-sussidjarji tagħha jkunu qeghdin imexxu l-kummerċ tal-assigurazzjoni.";

(f) minnufih wara s-subartikolu (5) tiegħu, kif emendat, għandu jidjed dan is-subartikolu ġdid li ġej:

"(6) L-awtorità kompetenti għandha tavża lill-EIOPA b'kull revoka ta' awtorizzazzjoni kif hemm fl-artikoli 25 u 26.".

Emenda tal-artikolu 28 tal-Att prinċipali.

25. L-artikolu 28 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem

"tehtieg lill-kumpanija", għandhom jidhlu l-kliem "tehtieg lill-impriza";

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "biex tagħti parir lill-kumpanija", għandhom jidhlu l-kliem "biex tagħti parir lill-impriza";

(iii) il-paragrafi (ċ), (d), (e), (f), (g), (h) u (i) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (d), (e), (f), (g), (h), (i) u (j) rispettivament;

(iv) minnufih wara l-paragrafu (b) tiegħu, għandu jiżdied dan il-paragrafu ġdid li ġej:

"(ċ) tirrestringi d-disponiment hieles tal-attiv tal-impriza tal-assigurazzjoni awtorizzata, biex tissalvagwardja l-interessi tal-persuni assigurati;"

(v) fil-paragrafu (d) tiegħu, kif enumerat mill-ġdid:

(aa) minflok il-kliem "l-attiv tal-kumpanija", għandhom jidhlu l-kliem "l-attiv tal-impriza"; u

(bb) minflok il-kliem "detenturi ta' polza, kredituri u azzjonisti tal-kumpanija", għandhom jidhlu l-kliem "detenturi ta' polza u kredituri legittimi tal-impriza";

(vi) fil-paragrafu (e) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "tal-kummerċ tal-kumpanija", għandhom jidhlu l-kliem "tal-kummerċ tal-impriza";

(vii) fil-paragrafu (f) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "ta' kumpanija, jew fil-każ ta' kumpanija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "ta' impriza jew, fil-każ ta' impriza tal-assigurazzjoni jew tarriassigurazzjoni ta' pajjiż terz";

(viii) fil-paragrafu (g) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "tal-affarijiet tal-kumpanija", għandhom jidhlu l-kliem "tal-affarijiet tal-impriza";

(ix) fil-paragrafu (h) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li għandha tithallas mill-kumpanija", għandhom jidhlu l-kliem "li għandha

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tithallas mill-impriza";

(x) il-paragrafu (i) tiegħu, kif enumerat mill-ġdid, għandu jithassar; u

(xi) il-paragrafu (j) tiegħu, kif enumerat mill-ġdid, għandu jiġi enumerat mill-ġdid bħala l-paragrafu (i);

(b) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "ikun id-dmir tal-kumpanija li taġixxi", għandhom jidhlu l-kliem "ikun id-dmir tal-impriza li taġixxi";

(ii) fil-paragrafu (b) tiegħu:

(aa) minflok il-kliem "skont is-subartikolu (1)(ċ), il-kumpanija", għandhom jidhlu l-kliem "skont is-subartikolu (1)(d), l-impriza";

(bb) minflok il-kliem "tal-kumpanija dwar dak l-attiv sew jekk eżerċitabbli mill-kumpanija f'laqgħa ġenerali", għandhom jidhlu l-kliem "tal-impriza dwar dak l-attiv sew jekk eżerċitabbli mill-impriza f'laqgħat ġenerali"; u

(ċċ) minflok il-kliem "rappreżentanza legali u ġudizzjarja tal-kumpanija", għandhom jidhlu l-kliem "rappreżentanza legali u ġudizzjarja tal-impriza";

(iii) minflok il-paragrafu (ċ) tiegħu, għandu jidhlo dan li ġej:

"(ċ) skont is-subartikolu (1)(e), l-impriza għandha tissottometti l-kummerċ tagħha għall-kontroll minn dik il-persuna u għandha tipprovdiha b'dawk il-faċilitajiet li hija tista' teħtieġ biex tkompli tmexxi dak il-kummerċ jew biex taqdi l-funzjonijiet mogħtija lilha taħt dak il-paragrafu; u s-setgħat, il-funzjonijiet u d-dmirijiet kollha tal-impriza, sew jekk eżerċitabbli mill-impriza f'laqgħa ġenerali, jew mid-diretturi, jew minn xi persuna oħra, inkluża r-rappreżentanza legali u ġudizzjarja tal-impriza fil-kwistjonijiet kollha, għandhom ikunu eżerċitati minnha u vestiti fiha bl-esklużjoni ta' kull persuna oħra;"

(iv) fil-paragrafu (d) tiegħu, minflok il-kliem "skont is-subartikolu (1)(f), dik il-persuna tkun l-istralċjarju tal-kumpannija", għandhom jidhlu l-kliem "skont is-subartikolu (1)(g), dik il-persuna tkun l-istralċjarju tal-impriża";

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

"(3) Fil-każ ta' impriża tal-assigurazzjoni jew tarriassigurazzjoni ta' pajjiż terz, il-fergħat u l-uffiċċji f'Malta ta' dik l-impriża għandhom, jekk l-awtorità kompetenti hekk tordna u sal-limitu li hekk tordna, jitqiesu li jikkostitwixxu impriża separata.";

(d) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

Kap. 330 "(4) Id-dispożizzjonijiet tal-artikolu 16(8) tal-Att dwar Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw *mutatis mutandis* għal kull sanzjoni jew miżura amministrattiva jew dixxiplinarja, ta' liema tip tkun, inkluż kull twiddib jew twissija, imposti jew decizi mill-awtorità kompetenti taht dan l-Att, u regolamenti magħmulin tahtu jew Regoli dwar l-Assigurazzjoni."; u

(e) fis-subartikolu (5) tiegħu, minflok il-kliem "tista' tehtieg lill-kumpannija involuta", għandhom jidhlu l-kliem "tista' tehtieg lill-impriża konċernata".

26. Fl-intestatura tat-Taqsima VII tal-Att prinċipali, minflok il-kliem "SUPERVIŻJONI TA' KUMPANNIJI AWTORIZZATI", għandhom jidhlu l-kliem "SUPERVIŻJONI TA' IMPRIŻI TAL-ASSIGURAZZJONI U TAR-RIJASSIGURAZZJONI AWTORIZZATI".

Emenda tat-Taqsima VII tal-Att prinċipali.

27. L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 29 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(ii) minflok il-kliem "tehtieg lil kull kumpannija

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bhal dik biex -, għandhom jidhlu l-kliem "tehtieg lil kull impriza bhal dik jew kull persuna li tidher li għandha xi informazzjoni u, jew dokumentazzjoni rilevanti biex tagħmel dan kollu li ġej jew xi haġa minn dan li ġej:";

(iii) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

"(a) tagħtiha, f'dak iż-żmien u post u f'dik il-forma li tista' tispeċifika, dak it-tagħrif u dokumentazzjoni li tista' tehtieg inklużi *records* eżistenti tat-telefon u tat-traffiku ta' *data* eżistenti, dwar il-kummerċ li dik l-impriza tkun awtorizzata li tmexxi; jew dwar xi persuna li magħha l-impriza jkollha rabtiet mill-qrib;"

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

"(b) tagħtiha kull tagħrif jew dokumentazzjoni kif imsemmija verifikata b'dak il-mod u f'dak l-ilsien, li hija tista' tispeċifika;"

(v) fil-paragrafu (ċ) tiegħu, minflok il-kliem "biex tidher quddiemha", għandhom jidhlu l-kliem "tidher quddiemha";

(b) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "l-kumpannija awtorizzata", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata"; u

(ii) minflok il-kliem "tista' tehtieg lil kull persuna, sew jekk indikata", għandhom jidhlu l-kliem "tista' tehtieg lil kull persuna, inkluża persuna li l-impriza tkun għamlet *outsourcing* magħha ta' xi attività jew funzjoni, sew jekk indikata";

(ċ) minnufih wara s-subartikolu (7) tiegħu, għandu

jiżdied dan is-subartikolu (8) ġdid li ġej:

Kap. 204 "(8) Bla hsara għad-dispożizzjonijiet l-oħra ta' dan l-artikolu, impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tista' tkun meħtieġa mill-awtorità kompetenti tissottometti lill-Bank Ċentrali ta' Malta dik l-informazzjoni li l-Bank jista' b'mod raġonevoli jeħtieġ għat-twettiq tad-dmirijiet tiegħu taħt l-Att dwar il-Bank Ċentrali ta' Malta."

28. L-artikolu 30 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 30 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "teżamina l-affarijiet ta' kumpanniji awtorizzati.", għandhom jidhlu l-kliem "teżamina l-affarijiet ta' imprizi u ta' provdituri ta' servizzi awtorizzati.";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "mal-investigazzjoni ta' kumpanniji", għandhom jidhlu l-kliem "mal-investigazzjoni ta' imprizi"; u

(ii) minflok il-kliem "spettur jew spetturi biex jistharrġu u jirrapportaw dwar l-affarijiet ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "spettur jew spetturi biex jinvestigaw u jirrapportaw dwar l-affarijiet ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(c) fit-test Inġliż tal-paragrafu (b) tas-subartikolu (2) tiegħu, minflok il-kliem "to the said Authority.", għandhom jidhlu l-kliem "to the said authority.";

(d) fis-subartikolu (3) tiegħu, minflok il-kliem "tista' tibgħat lill-kumpannija konċernata kopja ta' kull rapport", għandhom jidhlu l-kliem "tista' tibgħat lill-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata konċernata kopja ta' kull rapport, jew ta' xi parti minnu,";

(e) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

"(4) Meta l-affarijiet ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata jkunu qed jiġu mistharrġa, ikun id-dmir tal-uffiċjali u l-aġenti kollha tal-

impriza li jipproduċu lil spettur il-kotba u d-dokumenti kollha tal-impriza jew li jirreferu għaliha u xort'ohra jagħtu lil spettur l-ġhajnuna kollha dwar l-istharriġ li huma b'mod raġonevoli jkun jistgħu jagħtu; u jekk uffiċjal jew aġent tal-impriza jirrifjuta li jipproduċi xi kotba jew dokumenti li jkun id-dmir tiegħu taħt dan l-artikolu li jipproduċi, jew jirrifjuta li jwieġeb għal xi mistoqsija li ssirli minn spettur dwar l-affarijiet tal-impriza, spettur għandu jirreferi l-kwistjoni lill-awtorità kompetenti u malli jiġri dan l-awtorità kompetenti għandha tistharreġ dwar il-każ u tiegħu l-passi li jidhrulha xierqa.";

(f) fis-subartikolu (5) tiegħu, minflok il-kliem "dwar kumpannija awtorizzata", għandhom jidhlu l-kliem "dwar impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(g) is-subartikoli (6) u (7) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (9) u (10) rispettivament;

(h) minnufih wara subartikolu (5) tiegħu, għandhom jizdiedu dawn is-subartikoli godda li ġejjin:

"(6) Meta l-informazzjoni relatata ma' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tkun f'is-sien li ma jkunx l-is-sien Malti jew Ingliż, l-awtorità kompetenti jew xi spettur mahtur minnha, jista' jehtieg li dik l-informazzjoni tiġi sottomessa jew fl-is-sien Ingliż jew fl-is-sien Malti.

(7) (a) Meta impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tagħmel *outsourcing* ta' xi funzjoni jew attività, l-awtorità kompetenti għandu jkollha aċċess effettiv għall-fond kummerċjali tal-provditur tas-servizz u għandha tkun tista' teżerċita dawk id-drittijiet ta' aċċess.

(b) Meta l-provditur tas-servizz ikun jinsab fi Stat Membru jew Stat ŻEE, li ma jkunx Malta, l-awtorità kompetenti għandha tgħarraf lill-awtorità xierqa tal-Istat Membru jew tal-Istat ŻEE tal-provditur tas-servizz qabel ma tagħmel xi spezzjoni fuq il-post fil-fond tal-provditur tas-servizz. Fil-każ ta' xi entità mhux sorveljata, l-awtorità xierqa tkun l-awtorità regolatorja Ewropea konċernata. L-awtorità kompetenti tista' tiddelega dawk l-ispezzjonijiet fuq il-post lill-awtorità regolatorja Ewropea tal-Istat Membru jew tal-Istat ŻEE fejn ikun jinsab il-provditur tas-

servizz.

(8) Meta l-awtorità kompetenti tkun gharrfet lill-awtorità regolatorja Ewropea li tkun bi hsiebha tagħmel xi spezzjoni fuq il-post skont is-subartikolu (7), jew meta tagħmel spezzjoni fuq il-post skont dak is-subartikolu msemmi, meta l-awtorità kompetenti ma tkunx tista' teżerċita fil-prattika d-dritt tagħha li tagħmel dik l-ispezzjoni fuq il-post, l-awtorità kompetenti tista' tirreferi l-kwistjoni lill-EIOPA u titlob l-assistenza tagħha skont l-artikolu 19 tar-Regolament (UE) Nru. 1094/2010.";

(i) fis-subartikolu (9) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "għandhom jithallsu mill-kumpannija konċernata", għandhom jidhlu l-kliem "għandhom jithallsu mill-impriża konċernata";

(j) minflok is-subartikolu (10) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġejj:

"(10) F'dan l-artikolu, kull referenza għal uffiċjali jew aġenti għandha tinkludi referenza sew għal uffiċjali u aġenti preżenti kif ukoll tal-imghoddi u l-espressjoni "aġenti", dwar impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata, għandha tinkludi intermedjarju fl-assigurazzjoni, registrat jew iskrutt taht l-Att dwar Intermedjarji fl-Assigurazzjoni, jew registrat ma' xi awtorità jew korp fl-Istat Membru jew fl-Istat ŻEE responsabbli għas-supervizjoni ta' intermedjarji tal-assigurazzjoni li jaġixxi għannom tal-impriża, il-bankiera, l-udituri u, fil-każ ta' impriża awtorizzata biex tmexxi kummerċ fit-tul, l-attwarju tal-impriża u persuna kif jista' jiġi preskrutt b'regolamenti magħmulin għall-finijiet tal-artikolu 18G.";

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(k) minnufih wara s-subartikolu (10) tiegħu, kif enumerat mill-ġdid, għandhom jizdiedu dawn is-subartikoli ġodda li ġejjin:

"(11) Is-setgħat li l-awtorità kompetenti għandha disponibbli skont l-artikoli 29 sa 31A dwar impriži tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzati għandhom ukoll ikunu disponibbli dwar l-attivitajiet ta' dawk l-impriži li ġew *outsourced*.

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(12) Id-dispożizzjonijiet tas-subartikolu (7) għandhom japplikaw *mutatis mutandis* meta l-provditur tas-servizz ikun jinsab f'pajjiż barra minn Malta, li ma jkunx Stat Membru jew Stat ŻEE."

Emenda tal-artikolu 31 tal-Att prinċipali.

29. L-artikolu 31 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "wara li turi l-evidenza tal-awtorità tagħha", għandhom jidhlu l-kliem "wara li ġgħib prova, jekk meħtieġ, tal-awtorità tagħha,"; u

(b) fil-proviso mas-subartikolu (3) tiegħu, minflok il-kliem "Izda meta dħul", għandhom jidhlu l-kliem "Izda, meta dħul".

Emenda tal-artikolu 31A tal-Att prinċipali.

30. L-artikolu 31A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "fiż-żmien u bil-mod imsemmi fid-direttiva.", għandhom jidhlu l-kliem "fiż-żmien u bil-mod imsemmi fid-direttiva jew f'kull direttiva oħra warajha.";

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4), rispettivament; u

(ċ) minnufih wara subartikolu (1) tiegħu, għandu jidher dan is-subartikolu ġdid li ġej:

"(2) Bla ħsara għall-generalità tad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, direttiva taht dan l-artikolu tista' -

(a) teħtieġ li xi haġa ssir jew li xi haġa ma tithallix issir, jew timponi xi projbizzjoni, restrizzjoni jew limitazzjoni, jew kull ħtieġa oħra, inkluża kull ħtieġa li toħroġ mil-ligijiet tal-Unjoni Ewropea, u tagħti setgħat, fir-rigward ta' kull transazzjoni jew għemil ieħor, jew dwar kull attiv, jew dwar kull haġ' oħra tkun li tkun;

(b) teħtieġ li xi uffiċjal ta' impriza li jkollu funzjonijiet fir-rigward ta' detentur ta' awtorizzazzjoni jiġi projbit, temporanjament jew xort' oħra, sospiż milli jwettaq attivitajiet liċenzjabbli taht l-Att, jew jitneħħa, jew jitneħħa u

jigi sostitwit, minn xi persuna oħra li tkun aċċettatata mill-awtorità kompetenti;"

31. Minnufih wara l-artikolu 31A tal-Att prinċipali, għandhom jizdiedu dawn l-artikoli ġodda li ġejjin:

Żjeda tal-artikoli 31B u 31Ċ mal-Att prinċipali.

"Proċess ta' revizjoni superviżorja.

31B. (1) L-awtorità kompetenti għandha tagħmel revizjoni u evalwazzjoni tal-istrategiji, proċessi u proċeduri ta' rappurtar li huma stabbiliti minn impriži awtorizzati biex ikunu konformi ma' dan l-Att, regolamenti u Regoli dwar l-Assigurazzjoni maħruġin taħtu. Din ir-revizjoni u evalwazzjoni għandha tinkludi l-valutazzjoni tal-htigiet kwalitattivi dwar is-sistema ta' governanza, il-valutazzjoni tar-riskji li l-impriži konċernati jiltaqgħu magħhom jew jistgħu jiltaqgħu magħhom u l-valutazzjoni tal-abbiltà ta' dawk il-impriži li jivvalutaw dawk ir-riskji meta jqisu l-ambjent li l-impriži jkunu joperaw fih.

(2) L-awtorità kompetenti għandha b'mod partikolari tagħmel revizjoni u evalwazzjoni ta' konformità ma' dan li ġej:

(a) is-sistema ta' governanza, inkluża l-valutazzjoni tar-riskju u tas-solvibilità tal-impriza stess, kif stipulat fl-artikolu 18I;

(b) il-provizjonijiet tekniċi kif stipulat fl-artikolu 18E;

(ċ) il-htigiet kapitali kif stipulat fl-artikoli 15 u 17;

(d) ir-regoli ta' investment kif stabbiliti fir-Regoli dwar l-Assigurazzjoni maħruġin skont dan l-Att;

(e) il-kwalità u kwantità ta' fondi tal-impriza stess kif stabbilit b'Regoli dwar l-Assigurazzjoni maħruġin konformement mal-artikolu 14;

(f) meta l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tuża mudell intern sħiħ jew parzjali, konformità kontinwa mal-htigiet għal mudelli interni sħaħ u parzjali stipulati fir-Regoli dwar l-Assigurazzjoni maħruġin konformement mal-artikolu 15.

(3) L-awtorità kompetenti għandha tevalwa l-adegwatezza tal-metodi u l-prattiċi tal-imprizi tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzati bl-għan li tidentifika avvenimenti possibbli jew bidliet futuri fil-kundizzjonijiet ekonomiċi li jista' jkollhom effetti avversi fuq il-qagħda finanzjarja globali tal-impriza konċernata.

(4) L-awtorità kompetenti għandha tevalwa l-abbiltà tal-imprizi awtorizzati li jkunu jifilhu għal dawk l-avvenimenti possibbli jew bidliet futuri fil-kundizzjonijiet ekonomiċi.

(5) Meta l-awtorità kompetenti tidentifika xi dgħufija jew defiċjenza bħala konsegwenza tal-proċess ta' revizjoni superviżorja, hija għandha titlob lill-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni konċernata biex tirrimedja dik id-dgħufija jew defiċjenza f'dak iż-żmien u b'dak il-mod li tista' tqis li jkun meħtieġ jew xieraq fiċ-ċirkostanzi.

(6) Kull revizjoni, evalwazzjoni u valutazzjoni msemmija fis-subartikoli (1) sa (4) għandhom isiru b'mod frekwenti u l-awtorità kompetenti għandha tistabbilixxi l-frekwenza minima u l-iskop ta' dik ir-revizjoni, evalwazzjoni u valutazzjoni, filwaqt li tqis x-xorta, id-daqs u l-komplessità tal-attivitajiet tal-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni konċernata.

(7) Fil-każ ta' avvenimenti jew bidliet futuri fil-kundizzjonijiet ekonomiċi li jista' jkollhom effetti sfavorevoli fuq il-qagħda finanzjarja globali ta' imprizi tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzati, b'żjieda mal-kalkolu tal-Kapital Rekwizit għas-Solvibilità, l-awtorità kompetenti tista' teħtieġ lill-imprizi jagħmlu dawk l-eżamijiet kif jista' jigi stabbilit biex tivvaluta l-abbiltà tal-imprizi konċernati li jifilhu għal dawk l-avvenimenti jew bidliet futuri fil-kundizzjonijiet ekonomiċi li jista' jkollhom effetti sfavorevoli fuq l-istabbiltà finanzjarja globali tagħhom.

Setgħa li tiġi
stabbilita zżjeda
mal-kapital.

31Ċ. (1) Wara li jsir il-proċess ta' reviżjoni superviżorja mmexxi skont l-artikolu 31B, l-awtorità kompetenti tista', f'ċirkostanzi eċċezzjonali, tistabbilixxi zżjeda kapitali ulterjuri għal impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata fejn issemmi xi jkunu r-raġunijiet għad-deċiżjoni tagħha. Dik is-setgħa għandha tiġi eżerċitata f'dawn il-kazijiet li ġejjin:

(a) meta tasal għal konklużjoni li l-profil tar-riskju tal-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata jiddevja b'mod sinifikanti mis-suppożizzjonijiet sottostanti għall-Kapital Rekwizit għas-Solvibbilità, kif kkalkolat billi tiġi użata l-formula *standard* skont l-artikolu 15; u

(i) l-htieġa li jintuża l-mudell intern taht subartikolu (3) tal-artikolu 15 ma jkunx adatt jew kien wiehed ineffettiv; jew

(ii) filwaqt li jkun qed jiġi żviluppat mudell intern parzjali jew shiħ skont l-artikolu 15(3);

(b) meta tasal għal konklużjoni li l-profil tar-riskju tal-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata jiddevja b'mod sinifikanti mis-suppożizzjonijiet sottostanti għall-Kapital Rekwizit għas-Solvibbilità, kif kalkolat billi jiġi użat mudell intern jew mudell intern parzjali, minhabba f'li ċertu riskji kwantifikabbli jinqabdu b'mod insuffiċjenti u l-adattament tal-mudell biex jirrifletti aħjar l-profil tar-riskju stabbilit ma jkunx intlaħaq f'perjodu xieraq ta' żmien;

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(ċ) meta tasal għal konklużjoni li s-sistema ta' governanza ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tiddevja b'mod sinifikanti minn *standards* stipulati fl-artikolu 18I u f'Regoli dwar l-Assigurazzjoni mahruġin tahtu, li dawk id- devjazzjonijiet ma jhallux lill-impriża milli tkun tista' tidentifika, tqis, tissorvelja, timmaniġġa u tirrapporta b'mod xieraq ir-riskji li tkun jew tista' tkun esposta għalihom u l-applikazzjoni ta' miżuri oħra x'aktarx li fiha nnifisha mhux se ttejjeb in-nuqqasijiet b'mod suffiċjenti matul perjodu xieraq ta' żmien;

(d) l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tapplika l-aġġustament għat-tqabbil jew l-aġġustament tal-volatilità msemmija fl-Artikoli 77b u 77d tad-Direttiva Solvibilità II, rispettivament, jew il-miżuri transizzjonali msemmija fl-Artikoli 308c u 308d ta' dik id-Direttiva u l-awtorità kompetenti tikkonkludi li l-profil tar-riskju ta' dik l-impriża jiddevja b'mod sinifikanti mis-suppożizzjonijiet sottostanti għal dawk l-aġġustamenti u miżuri transizzjonali; jew

(e) f'xi ċirkostanzi bħal dawk jistgħu jiġu addizzjonalment speċifikati mid-Direttiva Solvibilità II.

(2) Fiċ-ċirkostanzi stabbiliti:

(a) fil-paragrafi (a) u (b) tas-subartikolu (1), iż-żjeda kapitali ulterjuri għandha tiġi kkalkulata b'tali mod li tiżgura li l-impriża tkun konformi mal-Artikolu 101(3) tad-Direttiva Solvibilità II;

(b) fil-paragrafu (ċ) tas-subartikolu (1), iż-żjeda kapitali ulterjuri għandha tkun proporzjonata mar-riskju materjali li joriġina mid-defiċjenzi li jkunu taw lok għad-deċiżjoni tal-awtorità kompetenti li tistabbilixxi iż-żjeda kapitali ulterjuri; u

(ċ) fil-paragrafu (d) tas-subartikolu (1), iż-żjieda kapitali ulterjuri għandha tkun proporzjonata mar-riskju materjali li jorigina mid-devjazzjoni msemmija f'dak il-paragrafu.

(3) Fil-każijiet stabbiliti fil-paragrafi (b) u (ċ) tas-subartikolu (1), l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata għandha mingħajr dewmien tirrimedja għan-nuqqasijiet li jkunu wasslu għall-imposizzjoni taż-żjieda kapitali ulterjuri.

(4) L-awtorità kompetenti għandha tirrevedi ż-żjieda kapitali ulterjuri, mill-inqas darba fis-sena u għandha tapprova t-tnehhija ta' dik iż-żjieda kapitali ulterjuri meta l-impriża tkun irrimedjat għan-nuqqasijiet li jkunu wasslu għal dik l-imposizzjoni.

(5) Il-Kapital Rekwizit għas-Solvibbiltà inkluża ż-żjieda kapitali ulterjuri imposta għandhom jissostitwixxu l-Kapital Rekwizit għas-Solvibbiltà inadegwat:

Iżda, il-Kapital Rekwizit għas-Solvibbiltà m'għandux jinkludi ż-żjieda kapitali ulterjuri imposta skont is-subartikolu (1)(ċ), għall-finijiet tal-kalkolu tal-marġni ta' riskju msemmi fl-Artikolu 77(5) tad-Direttiva Solvibbiltà II."

32. Minflok l-artikolu 32 tal-Att prinċipali, għandu jidhol dan li ġej:

Emenda tal-artikolu 32 tal-Att prinċipali.

"Informazzjoni li għandha tiġi provvduta għal finijiet ta' superviżjoni.

32. Impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata għandha tissottometti lill-awtorità kompetenti l-informazzjoni li tkun meħtieġa għall-finijiet ta' superviżjoni, meta jitqiesu l-għanijiet ta' superviżjoni, li jistgħu jkunu speċifikati permezz ta' regolamenti jew Regoli dwar l-Assigurazzjoni li għandhom ukoll jispeċifikaw iż-żmien li fih għandha tiġi sottomessa din l-informazzjoni."

33. Minnufih wara t-Taqsima VII tal-Att prinċipali, għandha tizzied din it-taqsima ġdida li ġejja:

Żjieda tat-Taqsima VIIA mal-Att prinċipali.

"TAQSIMA VIIA
SUPERVIŻJONI TA' GRUPP

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Supervizjoni
ta' grupp.

32A. L-awtorità kompetenti għandha tipprovdi għas-supervizjoni, fil-livell ta' grupp, ta' imprizi tal-assigurazzjoni u tar-rijassigurazzjoni li huma parti minn grupp skont regolamenti jew Regoli dwar l-Assigurazzjoni maħruġin għall-finijiet ta' din it-Taqsima.

Supervizur tal-
grupp.

32B. (1) Is-supervisur tal-grupp ta' imprizi tal-assigurazzjoni u tar-rijassigurazzjoni li huma parti minn grupp, għandu jkun responsabbli għall-koordinazzjoni u l-eżerċizzju ta' supervizjoni ta' grupp.

(2) Għall-finijiet ta' din it-Taqsima, "supervisur tal-grupp" tfisser l-awtorità supervizorja responsabbli għas-supervizjoni ta' grupp, stabbilita skont l-Artikolu 247 tad-Direttiva Solvibilità.

(3) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp, hija għandha, f'dik li hi supervizjoni ta' grupp, twettaq dawn il-funzjonijiet li ġejjin:

(a) il-koordinazzjoni tal-ġbir u tixrid ta' informazzjoni rilevanti jew essenzjali għal *going concern* u sitwazzjonijiet ta' emerġenza, inkluż it-tixrid ta' informazzjoni li tkun ta' importanza għat-twettiq tal-ħidmiet supervizorji ta' awtoritajiet responsabbli għas-supervizjoni ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fil-grupp;

(b) ir-reviżjoni supervizorja u l-valutazzjoni tas-sitwazzjoni finanzjarja tal-grupp;

(ċ) il-valutazzjoni ta' konformità tal-grupp mar-regoli dwar is-solvibilità u dwar il-konċentrament tar-riskju u transazzjonijiet intra-grupp skont l-Artikoli 218 sa 245 tad-Direttiva Solvibilità II;

(d) il-valutazzjoni tas-sistema ta' governanza tal-grupp, kif stabbilit fl-Artikolu 246 tad-Direttiva Solvibilità II, u ta' jekk il-bord tad-diretturi tal-impriza partecipanti jkunx iwettaq il-ħtigiet ta' idoneità u kompetenza stabbiliti fl-Artikoli 42 u 257 tad-Direttiva Solvibilità II;

(e) l-ippjanar u l-koordinazzjoni, permezz ta' laqgħat regolari li jsiru mill-inqas darba f'sena jew permezz ta' mezzi oħra xierqa, ta' attivitajiet superviżorji ta' *going concern* kif ukoll f'sitwazzjonijiet ta' emergenza, b'kooperazzjoni mal-awtoritajiet responsabbli għas-superviżjoni ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp, u b'konsiderazzjoni tax-xorta, id-daqs u l-komplessità tar-riskji inerenti fil-kummerċ tal-imprizi kollha li jiffurmaw parti minn dak il-grupp;

(f) il-ħidmiet, miżuri u deċizjonijiet oħra assenjati lill-awtorità kompetenti, bħala supervisur tal-grupp, mid-Direttiva Solvibilità II jew li jtnisslu mill-applikazzjoni ta' dik id-Direttiva, b'mod partikolari t-tmexxija tal-proċess li jwassal għall-validazzjoni ta' xi mudell intern fil-livell ta' grupp skont l-Artikoli 231 u 233 tad-Direttiva Solvibilità II u t-tmexxija tal-proċess li jippermetti l-applikazzjoni tar-reġim stabbilit fl-Artikoli 237 sa 240 ta' dik id-Direttiva.

(4) Sabiex jiġi faċilitat l-eżerċizzju ta' ħidmiet ta' superviżjoni tal-grupp, stipulati fis-subartikolu (3), għandu jiġi stabbilit kulleġġ ta' superviżuri. Dan għandu jiġi presjedut mill-awtorità kompetenti meta din tkun is-supervisur tal-grupp. Is-sħubija, funzjonament u proċessi ta' konsultazzjoni tal-kulleġġ ta' superviżuri għandhom jiġu stabbiliti b'regolamenti jew Regoli dwar l-Assigurazzjoni.

Kooperazzjoni u skambju ta' informazzjoni fir-rigward ta' superviżjoni ta' grupp.

32Ċ. (1) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp, din għandha tikkoopera fil-qrib mal-awtoritajiet responsabbli l-oħra għas-superviżjoni ta' imprizi tal-assigurazzjoni jew rijassigurazzjoni individwali fi grupp, partikolarment, f'każijiet meta impriza tal-assigurazzjoni jew tar-rijassigurazzjoni fi ħdan il-grupp tiltaqa' ma' diffikultajiet finanzjarji.

(2) Meta l-awtorità kompetenti tkun waħda mill-awtoritajiet responsabbli għas-supervizjoni ta' impriża tal-assigurazzjoni jew rijassigurazzjoni individwali fi grupp, din għandha tikkoopera mill-qrib ma' awtoritajiet responsabbli oħra fil-grupp u mas-supervisur tal-grupp, partikolarment, f'każijiet meta l-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni tiltaqa' ma' diffikultajiet finanzjarji.

(3) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp jew tkun waħda mill-awtoritajiet responsabbli għas-supervizjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp, din għandha -

(a) tipprovdi lill-awtoritajiet responsabbli oħra għas-supervizjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp dik l-informazzjoni li tippermetti u tiffaċilita l-eżerċizzju tal-hidmiet superviżorji konċernati taħt d-Direttiva Solvibilità II;

(b) tikkomunika kull informazzjoni rilevanti lil dawk l-awtoritajiet mingħajr dewmien, malli din tkun disponibbli jew tagħmel skambju ta' informazzjoni malli tintalab li jsir dan; u

(ċ) minnufih issejjaħ laqgħa tal-awtoritajiet kollha involuti fis-supervizjoni tal-grupp, tal-inqas meta -

(i) issir taf bi ksur sinifikanti tal-Kapital Rekwizit għas-Solvibilità jew bi ksur tal-Kapital Minimu Rekwizit ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali;

(ii) issir taf bi ksur sinifikanti tal-Kapital Rekwizit għas-Solvibilità fil-livell ta' grupp kkalkulat abbażi ta' *data* konsolidata jew tal-Kapital Rekwizit għas-Solvibilità tal-grupp aggregat, skont il-metodu ta' kalkolu użat ikun liema jkun, kif hemm fit-Titolu III, Kapitolu II, Sezzjoni I, Subsezzjoni 4 tad-Direttiva Solvibilità II; jew

(iii) ċirkostanzi eċċezzjonali oħra jkunu qed iseħħu jew sehħew.

(4) Meta xi waħda mill-awtoritajiet responsabbli għas-superviżjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp ma tkunx ikkomunikat informazzjoni rilevanti, jew talba għal kooperazzjoni, partikolarment għal skambju ta' informazzjoni rilevanti, tkun giet miċhuda jew ma tkun ittiehdet ebda azzjoni dwarha fi żmien ġimagħtejn, l-awtorità kompetenti tista' tirreferi l-kwistjoni lill-EIOPA.

(5) Meta s-supervisur tal-grupp jonqos milli jwettaq il-hidmiet imsemmija fil-paragrafu (1) tal-Artikolu 248 tad-Direttiva Solvibilità II, jew meta l-membri tal-kulleġġ ta' superviżuri ma jikkooperawx sal-limitu meħtieġ b'dak is-subartikolu, l-awtorità kompetenti tista' tirreferi l-kwistjoni lill-EIOPA u titlob l-għajnuna tagħha skont l-Artikolu 19 tar-Regolament (UE) Nru. 1094/2010.

(6) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp, din għandha tipprovdi lill-awtoritajiet responsabbli għas-superviżjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp u lill-EIOPA informazzjoni dwar il-grupp skont l-Artikolu 19, l-Artikolu 51(1) u l-Artikolu 254(2) tad-Direttiva Solvibilità II, partikolarment dwar l-istruttura legali u l-governanza u l-istruttura organizzattiva tal-grupp.

(7) Bla ħsara għall-Artikolu 248 tad-Direttiva Solvibilità II, l-awtorità kompetenti għandha, meta deċiżjoni tkun waħda ta' importanza għall-hidmiet superviżorji tal-awtoritajiet l-oħra responsabbli għas-superviżjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp, qabel ma tieħu xi deċiżjoni, tikkonsulta lill-awtoritajiet imsemmija fil-kulleġġ ta' superviżuri dwar dan li ġej:

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(a) bidliet fl-istruttura tal-*holding* ta' azzjonijiet, fl-istruttura organizzattiva jew fit-tmexxija ta' impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata li tiffirma parti minn grupp u li teħtieġ l-approvazzjoni jew l-awtorizzazzjoni tal-awtorità kompetenti;

(b) id-deċizzjoni dwar l-estensjoni tal-perjodu ta' rkupru skont l-Artikolu 138(3) u (4) tad-Direttiva Solvibilità II;

(ċ) sanzjonijiet maġġuri jew miżuri eċċezzjonali li jittieħdu mill-awtorità kompetenti, inkluża l-imposizzjoni ta' zjieda kapitali ulterjuri mal-Kapital Rekwizit għas-Solvibilità taħt l-artikolu 31Ċ u l-impożizzjoni ta' xi limitazzjoni fuq l-użu ta' mudell intern fil-kalkolu tal-Kapital Rekwizit għas-Solvibilità kif stabbilit fir-Regoli dwar l-Assigurazzjoni magħmulin għall-finijiet tat-Titolu I, Kapitolu VI, Sezzjoni 4, Subsezzjoni 3 tad-Direttiva Solvibilità II.

(8) Għall-finijiet tal-paragrafi (b) u (ċ) tas-subartikolu (7) u meta l-awtorità kompetenti ma tkunx is-supervisur tal-grupp, is-supervisur tal-grupp għandu dejjem jiġi kkonsultat.

(9) Meta l-awtorità kompetenti tkun qegħda tqis xi deċizzjoni msejsa fuq informazzjoni li tkun irċeviet mingħand awtoritajiet responsabbli oħra għas-supervizjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp, hija għandha tikkonsulta lil dawk l-awtoritajiet konċernati qabel ma tieħu dik id-deċizzjoni.

(10) Bla ħsara għall-Artikolu 248 tad-Direttiva Solvibilità II, l-awtorità kompetenti tista' tiddeċiedi li ma tikkonsultax awtoritajiet oħra f'każijiet ta' urġenza jew meta tali konsultazzjoni tista' tipperikola l-effettività tad-deċizzjoni tagħha. F'dak il-każ, l-awtorità kompetenti għandha mingħajr dewmien, tgħarraf lill-awtoritajiet responsabbli l-oħra għas-supervizjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp.

(11) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp u tkun teħtieġ informazzjoni mingħand impriża għall-finijiet tal-Artikolu 254(2) tad-Direttiva Solvibilità II, li tkun diġà ingħatat lil awtorità responsabbli għas-superviżjoni ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni individwali fi grupp, l-awtorità kompetenti għandha, kull meta jkun possibbli, tikkuntattja lil dik l-awtorità biex tikseb dik l-informazzjoni.

(12) Meta impriża *parent* jkollha l-uffiċċju prinċipali tagħha f'Malta u l-awtorità kompetenti ma tkunx is-supervisur tal-grupp konformement mal-Artikolu 247 tad-Direttiva Solvibilità II, l-awtorità kompetenti għandha, fuq talba tas-supervisur tal-grupp, teħtieġ lill-impriża *parent* tipprovdi kull informazzjoni rilevanti għall-eżerċizzju ta' superviżjoni ta' grupp kif stipulat fl-Artikolu 248 tad-Direttiva Solvibilità II, u l-awtorità kompetenti għandha tgħaddi dik l-informazzjoni lis-supervisur tal-grupp.

(13) Meta l-awtorità kompetenti tkun is-supervisur tal-grupp, din tista' titlob lill-awtorità regolatorja Ewropea ta' impriża *parent* li jkollha l-uffiċċju prinċipali tagħha f'xi Stat Membru ieħor jew fi Stat ŻEE, biex titlob lil dik l-impriża tissottometti kull informazzjoni li kieku tkun rilevanti għall-eżerċizzju tad-drittijiet u dmirijiet ta' koordinament tagħha kif hemm stabbilit fl-Artikolu 248 tad-Direttiva Solvibilità II, u biex tgħaddiha direttament lill-awtorità kompetenti.

(14) Informazzjoni li tasal għall-finijiet ta' dan l-artikolu għandha titqies bħala waħda kunfidenzjali u protetta mid-dmir ta' segretezza professjonali.

Verifika ta'
informazzjoni.

32D. (1) Bla ħsara għall-artikolu 30, l-awtorità kompetenti tista' twettaq f'Malta, hi stess jew permezz ta' persuna maħtura għal dak il-għan, verifika fuq il-post ta' informazzjoni bħal dik imsemmija fl-Artikolu 254 tad-Direttiva Solvibilità II fil-postijiet tax-xogħol ta' xi waħda minn dawn li ġejjin:

(a) impriża tal-assigurazzjoni jew tar-rijassigurazzjoni li tkun soġġetta għas-superviżjoni ta' grupp;

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(b) imprizi relatati tal-impriza msemija fil-paragrafu (a);

(ċ) imprizi *parent* tal-impriza msemija fil-paragrafu (a);

(d) imprizi relatati ta' impriza *parent* tal-impriza msemija fil-paragrafu (a).

(2) Meta l-awtorità kompetenti tkun teħtieġ, f'kazijiet speċifiċi, tivverifika informazzjoni dwar xi impriza, sew regolata sew mhix, li tkun tiffirma parti minn grupp u din tkun tinsab f'xi Stat Membru ieħor jew fi Stat ŻEE, l-awtorità kompetenti għandha:

(a) titlob lill-awtorità regolatorja Ewropea thalli lill-awtorità kompetenti twettaq il-verifika fuq il-post hi nnifisha; jew

(b) titlob lill-awtorità regolatorja Ewropea twettaq dik il-verifika f'isimha, jew taħtar uditur jew espert biex iwettaq dik il-verifika; jew

(ċ) f'kazijiet meta ma twettaqx il-verifika fuq il-post hi nnifisha, titlob li tippartecipa fit-twettiq ta' dik il-verifika.

(3) Meta l-awtorità kompetenti tirċievi, f'kazijiet speċifiċi, talba minn awtorità regolatorja Ewropea biex tivverifika l-informazzjoni dwar impriza li tinsab f'Malta, sew jekk regolata sew jekk mhix, li tkun tiffirma parti minn grupp, l-awtorità kompetenti għandha taġixxi dwar dik it-talba jew billi twettaq il-verifika fuq il-post hi nnifisha, jew billi thalli uditur jew espert biex iwettaqha, jew billi thalli lill-awtorità regolatorja Ewropea li tkun għamlet it-talba twettaqha hi nnifisha, u dik l-awtorità tista', meta ma twettaqx dik il-verifika hi nnifisha, tieħu sehem fil-verifika fuq il-post.

(4) Meta l-awtorità kompetenti tkun irċeviet talba konformement mas-subartikolu (3), hija għandha tgħarraf lis-supervisur tal-grupp bl-azzjoni li tkun ittieħdet konformement mas-subartikolu (3).

(5) Meta ma jkun sar xejn dwar talba lil awtorità regolatorja Ewropea biex issir verifika kif hemm fis-subartikolu (2) fi żmien ġimgħatejn, l-awtorità kompetenti tista' tirreferi l-kwistjoni lill-EIOPA u tista' titlob l-ghajjnuna tagħha skont l-Artikolu 19 ta' Regolament (UE) Nru. 1094/2010.

(6) Għall-finijiet tas-subartikoli (2) u (3), skont l-Artikolu 21 tar-Regolament (UE) Nru. 1094/2010, l-EIOPA jkollha jedd tippartecipa f'eżamijiet li jsiru fuq il-post meta dawn isiru b'mod kongunt mill-awtorità kompetenti u xi waħda jew aktar mill-awtoritajiet regolatorji Ewropej.

Impriża *parent* li jkollhom kontroll barra mill-Unjoni: Verifika ta' ekwivalenza.

32E. L-awtorità kompetenti tista' tadotta regolamenti jew Regoli dwar l-Assigurazzjoni għall-finijiet ta' verifika ta' ekwivalenza ta' supervizjoni ta' impriża *parent* li jkollhom l-uffiċċju prinċipali tagħhom f'pajjiż terz, li jkunu jiffurmaw parti minn grupp, kif stabbilit fil-Kapitolu IV tad-Direttiva Solvibilità II.

Impriża *parent* li jkollha kontroll bhala kumpannija *holding* tal-assigurazzjoni b'attività mħallta.

32F. L-awtorità kompetenti tista' tadotta regolamenti jew Regoli dwar l-Assigurazzjoni meta l-impriża *parent* ta' xi impriża tal-assigurazzjoni jew rijassigurazzjoni, waħda jew aktar, tkun kumpannija *holding* tal-assigurazzjoni b'attività mħallta."

34. L-artikolu 33 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 33 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "li taħtha kumpannija awtorizzata taht dan l-Att ("iċ-ċedent"), tkun se tittrasferixxi lil kumpannija oħra," għandhom jidhlu l-kliem "li taħtha impriża tal-assigurazzjoni awtorizzata ("iċ-ċedent"), tkun se tittrasferixxi lil impriża oħra,";

(ii) fis-subparagrafu (a) tiegħu, minflok il-kliem "iċ-ċedent ikun kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta," għandhom jidhlu l-kliem "iċ-ċedent ikun impriża li l-uffiċċju prinċipali tagħha jkun f'Malta,"; u

(iii) fis-subparagrafu (b) tiegħu, minflok il-kliem "iċ-ċedent ikun kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta," għandhom jidhlu l-kliem "iċ-ċedent ikun impriża tal-assigurazzjoni ta' pajjiż

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terz,";

(b) fis-subartikolu (2) tiegħu:

(i) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "meta ċ-ċedent ikun kumpannija li tmexxi kummerċ minn Malta", għandhom jidhlu l-kliem "meta ċ-ċedent ikun impriża li tmexxi kummerċ minn Malta"; u

(ii) fis-subparagrafu (ii) tal-paragrafu (ċ) tiegħu, minflok il-kliem "meta ċ-ċedent ikun kumpannija li tmexxi kummerċ minn Malta", għandhom jidhlu l-kliem "hlief sakemm l-awtorità kompetenti tkun xort'ohra ordnat, meta ċ-ċedent ikun impriża li tmexxi kummerċ minn Malta";

(ċ) fis-subartikolu (4) tiegħu:

(i) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "awtorizzat taht l-artikolu 6 jew l-artikolu 23 tad-Direttiva tal-Kunsill tal-24 ta' Lulju 1973 dwar il-koordinament ta' ligijiet, regolamenti u dispożizzjonijiet amministrattivi li jirrigwardaw il-bidu u t-twettiq tal-kummerċ tal-assigurazzjoni diretta barra mill-assigurazzjoni tal-ħajja (73/239/KEE), biex imexxi kummerċ ġenerali", għandhom jidhlu l-kliem "awtorizzat taht l-Artikolu 14 jew l-Artikolu 162 tad-Direttiva Solvibilità II biex imexxi kummerċ ġenerali";

(ii) fis-subparagrafu (iii) tal-paragrafu (a) tiegħu, minflok il-kliem "taht is-subparagrafi (i) u (ii), iċ-ċessjonarju għandu", għandhom jidhlu l-kliem "taht is-subparagrafi (i) u (ii) ta' dan il-paragrafu, iċ-ċessjonarju għandu";

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

"(b) (i) iċ-ċessjonarju msemmi fis-subparagrafu (i) tal-paragrafu (a) ta' dan is-subartikolu jkollu, wara li jittiehed kont tat-trasferiment propost, il-fondi eligibbli tal-impriża stess meħtieġa biex ikopru l-Kapital Rekwizit għas-Solvibilità meħtieġ li jinżamm taht dan l-Att;

(ii) iċ-ċessjonarju msemmi fis-subparagrafu (ii) tal-paragrafu (a) ta' dan is-

subartikolu jkollu, wara li jittiehed kont tat-trasferiment propost, il-fondi eliġibbli tal-impriza stess meħtieġa biex ikopru l-Kapital Rekwizit għas-Solvibilità li hemm provdut dwaru fl-Artikolu 100 tad-Direttiva Solvibilità II; jew

(iii) jekk iċ-ċessjonarju ma jaqax taħt is-subparagrafi (i) u (ii) ta' dan l-il-paragrafu, iċ-ċessjonarju jkollu, jew ikun ser ikollu qabel ma tibda sseħħ l-iskema, il-ħtiġiet ta' solvibilità meħtieġa minnha, bil-liġi, jew taħt il-liġi applikabbli fil-post fejn il-kummerċ ikun qed jiġi trasferit; u";

(iv) fil-paragrafu (ċ) tiegħu:

(aa) fis-subparagrafu (i) tiegħu, minflok il-kliem "jekk iċ-ċessjonarju jkun kumpannija awtorizzata", għandhom jidhlu l-kliem "jekk iċ-ċessjonarju jkun impriza awtorizzata";

(bb) is-subparagrafu (ii) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subparagrafu (iii), u minnufih wara s-subparagrafu (i) tiegħu, għandu jizdied dan is-subparagrafu (ii) ġdid li ġej:

"(ii) jekk iċ-ċessjonarju jkun impriza tal-assigurazzjoni Ewropea, ir-rizorsi finanzjarji taċ-ċessjonarju huma, b'konsegwenza tat-trasferiment, biżżejjed biex jitwettqu l-obbligi l-oħra meħtieġa minnu, minn jew taħt il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit; jew"; u

(ċċ) fis-subparagrafu (iii) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "jekk iċ-ċessjonarju jkun kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta," għandhom jidhlu l-kliem "jekk iċ-ċessjonarju ikun impriza tal-assigurazzjoni ta' pajjiż terz,";

(v) fil-paragrafu (d) tiegħu:

(aa) minflok il-kliem "iċ-ċedent ikun kumpannija", għandhom jidhlu l-kliem "iċ-ċedent ikun impriza";

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(bb) fis-subparagrafu (i) tiegħu, minflok il-kliem "l-awtorità regolatorja barranija", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea"; u

(cc) fis-subparagrafu (ii) tiegħu, minflok il-kliem "l-awtorità regolatorja barranija", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea";

(vi) fil-paragrafu (e) tiegħu:

(aa) minflok il-kliem "jekk iċ-ċedent ikun kumpannija", għandhom jidhlu l-kliem "jekk iċ-ċedent ikun impriza";

(bb) fis-subparagrafu (i) tiegħu, minflok il-kliem "l-awtorità regolatorja barranija", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea";

(cc) is-subparagrafu (ii) tiegħu għandu jigi enumerat mill-ġdid bhala s-subparagrafu (iii), u minnufih wara is-subparagrafu (i) tiegħu, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(ii) l-awtorità regolatorja barranija fejn ikun jinsab ir-riskju tkun giet avzata bit-trasferiment propost; u"; u

(dd) fis-subparagrafu (iii) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "jew l-awtorità regolatorja barranija tkun taht il-kunsens għat-trasferiment jew li l-awtorità regolatorja barranija ma tkunx irrifjutat", għandhom jidhlu l-kliem "jew l-awtorità regolatorja Ewropea jew l-awtorità regolatorja barranija tkun tat il-kunsens għat-trasferiment jew l-awtorità regolatorja Ewropea jew l-awtorità regolatorja barranija ma tkunx irrifjutat";

(d) fil-paragrafu (a) tas-subartikolu (5) tiegħu, minflok il-kliem "tad-deċiżjoni tagħha fil-Gazzetta u b'dak il-mod l-ieħor", għandhom jidhlu l-kliem "tad-deċiżjoni tagħha b'dak il-mod".

Emenda tal-artikolu 34 tal-Att prinċipali.

35. L-artikolu 34 tal-Att prinċipali għandu jigi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jigi enumerat mill-ġdid bhala s-subartikolu (3), u minnufih wara s-subartikolu (1)

tiegħu, għandu jżied dan is-subartikolu ġdid li ġej:

"(2) Trasferiment approvat mill-awtorità kompetenti għandu jkun awtomatikament validu kontra detenturi ta' polza, persuni assigurati u kull persuna oħra li jkollha jeddijiet jew obbligi li joriginaw mill-kuntratti trasferiti."; u

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

"(3) Hlief safejn l-awtorità kompetenti tista' tordna xort'oħra, detentur ta' polza li l-polza tiegħu tkun inkluża fi skema bħal dik għandu jinghata avviż bil-miktub dwar li jsir dan miċ-ċessjonarju.".

36. L-artikolu 35 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 35 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "li jitmexxa minn kumpannija awtorizzata taht dan l-Att ("il-kumpannija ċedenti"), ikun se jiġi trasferit lil kumpannija oħra sew jekk hekk awtorizzata taht l-Att jew le," għandhom jidhlu l-kliem "li jitmexxa minn impriża tal-assigurazzjoni awtorizzata taht dan l-Att ("iċ-ċedent"), ikun se jiġi trasferit lil impriża oħra sew jekk hekk awtorizzata taht l-Att jew le ("iċ-ċessjonarju");"

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "meta l-kumpannija ċessjonarja tkun kumpannija", għandhom jidhlu l-kliem "meta ċ-ċedent ikun impriża";

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem "l-kumpannija ċessjonarja tkun kumpannija li l-uffiċċju prinċipali tagħha f'pajjiż barra minn Malta," għandhom jidhlu l-kliem "ċ-ċedent ikun impriża tal-assigurazzjoni ta' pajjiż terz,"; u

(iv) fil-paragrafu li jiġi minnufih wara l-paragrafu (b), minflok il-kliem "il-kumpannija ċessjonarja jew il-kumpannija ċedenti għandha," għandhom jidhlu l-kliem "iċ-ċedent jew iċ-ċessjonarju għandu," u minflok il-kelma "titlob", għandha tidhol il-kelma "jitlob";

(b) fis-subartikolu (3) tiegħu:

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(i) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "meta l-kumpannija ċedenti tkun kumpannija li tmexxi kummerċ", għandhom jidhlu l-kliem "meta ċ-ċedent ikun impriza li tmexxi kummerċ";

(ii) fis-subparagrafu (ii) tal-paragrafu (b) tiegħu, minflok il-kliem "detenturi ta' polza ta' kummerċ fit-tul tal-kumpanniji konċernati,", għandhom jidhlu l-kliem "detenturi ta' polza ta' kummerċ fit-tul ta' imprizi konċernati,";

(iii) fil-paragrafu li jiġi minnufih wara s-subparagrafu (ii) tal-paragrafu (b), minflok il-kliem "tad-dikjarazzjoni tagħha lill-kumpannija ċedenti,", għandhom jidhlu l-kliem "tad-dikjarazzjoni tagħha liċ-ċedent,";

(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem "mid-data tan-notifika; u", għandhom jidhlu l-kliem "mid-data tan-notifika,";

(v) fil-paragrafu (d) tiegħu:

(aa) fis-subparagrafu (i) tiegħu, minflok il-kliem "tal-kumpannija konċernata,", għandhom jidhlu l-kliem "tal-imprizi konċernati,";

(bb) fis-subparagrafu (ii) tiegħu, minflok il-kliem "l-kumpannija ċedenti tkun", għandhom jidhlu l-kliem "ċ-ċedent ikun";

(ċċ) fl-inċiż (aa) fis-subparagrafu (ii) tiegħu, minflok il-kliem "kumpannija li", għandhom jidhlu l-kliem "mpriza li";

(dd) fl-inċiż (bb) tas-subparagrafu (ii) tiegħu, minflok il-kliem "kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni ta' pajjiż terz";

(vi) fil-paragrafu li jiġi minnufih wara l-inċiż (bb) tas-subparagrafu (ii) tal-paragrafu (d) tiegħu, minflok il-kliem "dak id-dritt li jkun stabbilit mit-Tribunal.", għandhom jidhlu l-kliem "dak id-dritt li jkun stabbilit mit-Tribunal; u"; u

(vii) minnufih wara l-paragrafu li jiġi wara l-inċiż (bb) tas-subparagrafu (ii) tal-paragrafu (d) tiegħu, għandu

jizdied dan il-paragrafu (e) ġdid li ġej:

"(e) l-avviż u d-dikjarazzjoni msemmija f'dan is-subartikolu għandhom isemmu li rappreżentazzjonijiet bil-miktub dwar it-trasferiment jistgħu jintbagħtu lit-Tribunal fi żmien stabbilit mit-Tribunal.";

(ċ) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

"(4) Meta tigi pprezentata applikazzjoni taht is-subartikolu (1):

(a) l-awtorità kompetenti tista' tinstema mit-Tribunal; u

(b) l-awtorità kompetenti u kull detentur ta' polza li jallega li jintlaqat hażin jekk issir l-iskema u kull persuna oħra li tiddikjara li jkollha interess f'polza inkluża fit-trasferiment propost u li tkun tat avviż liċ-ċedent b'dak l-interess, ikollhom jedd li jagħmlu rappreżentazzjonijiet bil-miktub.";

(d) fis-subartikolu (5) tiegħu:

(i) fis-subparagrafu (i) tal-paragrafu (a) tiegħu, minflok il-kliem "il-kumpannija ċessjonarja hi awtorizzata,", għandhom jidhlu l-kliem "iċ-ċessjonarju hu awtorizzat,", u minflok il-kliem "tkun awtorizzata taht l-artikolu 7 biex tmexxi kummerċ fit-tul" , għandhom jidhlu l-kliem "ikun awtorizzat taht l-artikolu 7 biex imexxi kummerċ fit-tul";

(ii) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu:

(aa) minflok il-kliem "il-kumpannija ċessjonarja hi awtorizzata,", għandhom jidhlu l-kliem "iċ-ċessjonarju hu awtorizzat,";

(bb) minflok il-kliem "tkun awtorizzata taht l-artikolu 4 jew l-artikolu 51 tad-Direttiva 2002/83/KE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' Novembru 2002 li tikkonċerna l-assigurazzjonii fuq il-ħajja, biex tmexxi", għandhom jidhlu l-kliem "ikun awtorizzat taht l-Artikolu 14 jew Artikolu 162 tad-Direttiva Solvibilità II, biex imexxi";

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

"(b) (i) iċ-ċessjonarju msemmi fis-subparagrafu (i) tal-paragrafu (a) ta' dan is-subartikolu, iġib prova li wara li jittiehed kont tat-trasferiment, ikun iżomm l-fondi eliġibbli tal-impriza stess meħtieġa biex ikopru l-Kapital Rekwizit għas-Solvibilità meħtieġ li jinżamm taht dan l-Att;

(ii) iċ-ċessjonarju msemmi fis-subparagrafu (ii) tal-paragrafu (a) ta' dan is-subartikolu, iġib prova li wara li jittiehed kont tat-trasferiment, ikollu l-fondi eliġibbli tal-impriza stess meħtieġa biex ikopru l-Kapital Rekwizit għas-Solvibilità li hemm provdut dwaru fl-Artikolu 100 tad-Direttiva Solvibilità II; jew

(iii) jekk iċ-ċessjonarju ma jkunx jinkwadra taht is-subparagrafi (i) u (ii), iċ-ċessjonarju jkollu, jew ikun se jkollu qabel ma sseħħ l-iskema, il-htigiet ta' solvibilità meħtieġa minnu bil-liġi, jew taht il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit;

(iv) (aa) jekk iċ-ċessjonarju jkun awtorizzat taht dan l-Att, ir-rizorsi finanzjarji tiegħu jkunu, b'konsegwenza tat-trasferiment, biżżejjed biex jitwettqu l-obbligi l-oħra meħtieġa minnu b'dan l-Att, jew taht dan l-Att; jew

(bb) jekk iċ-ċessjonarju jkun impriza tal-assigurazzjoni ta' pajjiż terz, ir-rizorsi finanzjarji taċ-ċessjonarju huma, b'konsegwenza tat-trasferiment, biżżejjed biex jitwettqu l-obbligi l-oħra meħtieġa minnu, bil-liġi, jew taht il-liġi applikabbli fil-post fejn il-kummerċ qed jiġi trasferit;"

(iv) fil-paragrafu (c) tiegħu:

(aa) minflok il-kliem "jekk iċ-ċedent ikun kumpannija", għandhom jidhlu l-kliem "jekk iċ-ċedent ikun impriza";

(bb) fis-subparagrafu (i) tiegħu, minflok il-

kliem "l-awtorità regolatorja barranija", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea";

(ċċ) fis-subparagrafu (ii) tiegħu, minflok il-kliem "l-awtorità regolatorja barranija", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea";

(e) fis-subartikolu (6) tiegħu:

(i) minflok il-kliem "l-kumpannija ċedenti tkun kumpannija", għandhom jidhlu l-kliem "iċ-ċedent ikun impriza";

(ii) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

"(a) li l-awtorità regolatorja Ewropea f'dak il-pajjiż tkun giet notifikata; jew";

(iii) il-paragrafu (b) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (ċ), u minnufih wara l-paragrafu (a) tiegħu, għandu jizdied dan il-paragrafu ġdid li ġej:

"(b) l-awtorità regolatorja barranija tkun giet notifikata bit-trasferiment propost; u"; u

(iv) fil-paragrafu (ċ) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "l-awtorità tkun tat il-kunsens tagħha għall-iskema jew li l-awtorità", għandhom jidhlu l-kliem "l-awtorità regolatorja Ewropea jew l-awtorità regolatorja barranija tkun tat il-kunsens tagħha għall-iskema jew li xi awtorità bħal dik"; u

(f) fis-subartikolu (7) thereof, minflok il-kliem "il-kumpannija ċessjonarja għandha", għandhom jidhlu l-kliem "iċ-ċessjonarju għandu," u minflok il-kelma "tiddepożita", għandha tidhol il-kelma "jiddepożita".

37. Fl-artikolu 36 tal-Att prinċipali, minflok il-kliem "kontra l-kumpannija ċessjonarja kull proċedimenti legali li jkunu pendenti minn jew kontra l-kumpannija ċedenti, li jkollhom x'jaqsmu mal-iskema.", għandhom jidhlu l-kliem "kontra iċ-ċessjonarju kull proċedimenti legali li jkunu pendenti minn jew kontra iċ-ċedent, li jkollhom x'jaqsmu mal-iskema.".

Emenda tal-artikolu 36 tal-Att prinċipali.

38. L-artikolu 37 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 37 tal-Att prinċipali.

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(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Eżenzjoni taht din it-Taqsima.", għandhom jidhlu l-kliem "Trasferiment ta' kummerċ ristrett għar-rijassigurazzjoni.";

(b) is-subartikolu (1) tiegħu għandu jithassar;

(ċ) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala l-artikolu sħiħ;

(d) fl-artikolu, kif enumerat mill-ġdid:

(i) minflok il-kliem "Meta kumpannija awtorizzata", għandhom jidhlu l-kliem "Meta impriża awtorizzata";

(ii) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "l-artikolu 4 tad-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni li temenda d-Direttivi tal-Kunsill 73/239/KEE, 92/49/KEE kif ukoll id-Direttivi 98/78/KE u 2002/83/KE," għandhom jidhlu l-kliem "l-Artikolu 14 jew 162 tad-Direttiva Solvibilità II,";

(iii) minflok is-subparagrafi (i) u (ii) tal-paragrafu (b) tiegħu, għandu jidhol dan li ġej:

"(i) iċ-ċessjonarju msemmi fis-subparagrafu (i) tal-paragrafu (a) iżomm, wara li jittiehed kont tat-trasferiment propost, il-fondi eliġibbli tal-impriża stess meħtieġa biex ikopru l-Kapital Rekwizit għas-Solvibilità li jkun meħtieġ li jinżamm taht dan l-Att;

(ii) iċ-ċessjonarju msemmi fis-subparagrafu (ii) tal-paragrafu (a) ikollu, wara li jittiehed kont tat-trasferiment propost, il-fondi eliġibbli tal-impriża stess meħtieġa biex jkopru l-Kapital Rekwizit għas-Solvibilità msemmija fl-Artikolu 100 jew 166 tad-Direttiva Solvibilità II; jew";

(iv) fil-paragrafu (ċ) tiegħu:

(aa) fis-subparagrafu (i) tiegħu, minflok il-kliem "iċ-ċessjonarju jkun kumpannija", għandhom jidhlu l-kliem "iċ-ċessjonarju jkun impriża"; u

(bb) fil-paragrafu (ii) tiegħu, minflok il-

kliem "iċ-ċessjonarju jkun kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "iċ-ċessjonarju jkun impriża tar-rijassigurazzjoni ta' pajjiż terz".

39. Minnufih wara l-artikolu 37 tal-Att prinċipali, għandu jizded dan l-artikolu 37A ġdid li ġej:

Żjieda tal-artikolu 37A ġdid mal-Att prinċipali.

"Trasferiment ta' kummerċ tal-assigurazzjoni lil impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata.

37A. (1) Meta jiġi propost li jsir trasferiment ta' kummerċ tal-assigurazzjoni li tahtu l-kummerċ ġenerali jew il-kummerċ fit-tul, kollu kemm hu jew parti minnu, ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni jkun se jiġi trasferit lil impriża awtorizzata taht dan l-Att ("iċ-ċessjonarju") minn impriża li tkun tinsab f'pajjiż barra minn Malta, iċ-ċessjonarju għandu javża lill-awtorità kompetenti bil-partikolaritajiet kollha tat-trasferiment propost u ebda trasferiment bhal dak m'għandu jsehh kemm-il darba u sakemm l-awtorità kompetenti ma tkunx tat il-kunsens tagħha bil-miktub.

(2) Meta l-awtorità kompetenti tkun htieġet pjan ta' rkupru jew skema finanzjarja skont l-artikoli 16 jew 18, din m'għandhiex toħroġ ċertifikat ta' solvibbiltà għall-finijiet ta' din it-Taqsima ta' dan l-Att sa dak iż-żmien li tqis li l-jeddijiet ta' detenturi ta' polza jew l-obbligi kuntrattwali tal-impriża tar-rijassigurazzjoni jkunu qegħdin jiġu preġudikati."

40. L-artikolu 38 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 38 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Parteċipazzjoni f'kumpannija awtorizzata.", għandhom jidhlu l-kliem "Bidliet fil-*holding* ta' azzjonijiet ta' impriża awtorizzata.";

(b) fis-subartikolu (1) tiegħu:

(i) fis-subparagrafu (a) tiegħu, minflok il-kliem "f'kumpannija awtorizzata;", għandhom jidhlu l-kliem "f'impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata;"

(ii) fis-subparagrafu (b) tiegħu, minflok il-kliem "f'kumpannija awtorizzata;", għandhom jidhlu l-kliem "f'impriża tal-assigurazzjoni jew tar-rijassigurazzjoni

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awtorizzata;"

(iii) fis-subparagrafu (ċ) tiegħu:

(aa) minflok il-kliem "f'kumpannija awtorizzata", għandhom jidhlu l-kliem "f'impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(bb) minflok il-kliem "il-kumpannija awtorizzata ssir sussidjarja tiegħu," għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata ssir sussidjarja tiegħu,";

(ċ) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "f'kumpannija awtorizzata," għandhom jidhlu l-kliem "f'impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata,";

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "l-kumpannija awtorizzata", għandhom jidhlu l-kliem "l-impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(d) fis-subartikolu (3) tiegħu, il-kliem "fil-kuntest tat-tifsira tal-Att dwar is-Swieq Finanzjarji jew f'suq ekwivalenti fi stat li ma jkunx Stat Membru jew Stat ŻEE" għandhom jithassru;

(e) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

"(4) Minkejja d-dispożizzjonijiet tas-subartikoli (1) u (2), ikun id-dmir ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata u tad-diretturi tagħha, li jinnotifikaw lill-awtorità kompetenti minnufih malli jsiru jafu li xi persuna tkun bi ħsiebha tiegħu xi pass stipulat f'dawn is-subartikoli.";

(f) fis-subartikolu (5) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata tiegħu jew tiddeciedi", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tiegħu jew tkun bi ħsiebha";

(ii) fis-subparagrafu (a) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(iii) fis-subparagrafu (ċ) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(iv) fis-subparagrafu (d) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(v) fis-subparagrafu (e) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(g) fis-subartikolu (6) tiegħu, minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata";

(h) fis-subartikolu (7) tiegħu:

(i) minflok il-kliem "kumpannija li l-uffiċċju prinċipali tagħha jkun f'pajjiż barra minn Malta", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-riassigurazzjoni ta' pajjiż terz"; u

(ii) minflok il-kliem "ikun jehtieg lil dik il-kumpannija", għandhom jidhlu l-kliem "ikun jehtieg lil dik l-impriza".

41. L-artikolu 38A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 38A tal-Att prinċipali.

(a) fis-subartikolu (5) tiegħu, minflok il-kliem "waqfien ta' dak il-perjodu.", għandhom jidhlu l-kliem "waqfien ta' dak il-perjodu ta' valutazzjoni.";

(b) fil-paragrafu (b) tas-subartikolu (6) tiegħu:

(i) is-subparagrafi (i), (ii), (iii) u (v) tiegħu għandhom jithassru u s-subparagrafi (iv) u (vi) għandhom jiġu enumerati mill-ġdid bħala s-subparagrafi (i) u (ii) rispettivament;

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(ii) fis-subparagrafu (ii) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "istituzzjonijiet ta' kreditu (*recast*).", għandhom jidhlu l-kliem "istituzzjonijiet ta' kreditu (*recast*)";

(iii) minnufih wara is-subparagrafu (ii) tiegħu, kif enumerat mill-ġdid, għandhom jiżiedu dawn is-subparagrafi (iii) u (iv) godda li ġejjin:

"(iii) id-Direttiva 2009/65/KE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Lulju 2009 dwar il-koordinazzjoni ta' liġijiet, regolamenti u dispożizzjonijiet amministrattivi fir-rigward tal-imprizi ta' investiment kollettiv f'titoli trasferibbli (UCITS) (*recast*);

(iv) id-Direttiva Solvibilità II.";

(ċ) fis-subartikolu (9) tiegħu, minflok il-kliem "stipulati fir-regola dwar l-assigurazzjoni msemija", għandhom jidhlu l-kliem "stipulati fir-Regoli dwar l-Assigurazzjoni msemijin";

(d) fis-subartikolu (12) tiegħu, minflok il-kliem "kull piena li tista' tiġi imposta taht dan l-Att, meta *holding* kwalifikattiv ta' azzjonijiet f'kumpanija awtorizzata", għandhom jidhlu l-kliem "kull miżura oħra li tista' tittiehed taht dan l-Att, meta *holding* kwalifikattiv ta' azzjonijiet f'impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata"; u

(e) fis-subartikolu (14) tiegħu, minflok il-kliem "fl-istess kumpanija awtorizzata", għandhom jidhlu l-kliem "fl-istess impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata".

Emenda tal-
artikolu 38B tal-
Att prinċipali.

ġej:

42. L-artikolu 38B tal-Att prinċipali għandu jiġi emendat kif

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Koperazzjoni ma' awtoritajiet regolatorji barranin", għandhom jidhlu l-kliem "Koooperazzjoni ma' awtoritajiet regolatorji Ewropej jew awtoritajiet regolatorji barranin";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "mal-awtoritajiet regolatorji barranin", għandhom jidhlu l-kliem "mal-awtoritajiet regolatorji Ewropej";

(ii) minflok il-kliem "il-valutazzjoni msemmija fl-artikolu 38A(2)", għandhom jidhlu l-kliem "il-valutazzjoni msemmija fl-artikolu 38A";

(iii) fil-paragrafu (a) tiegħu, minflok il-kliem "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni fuq il-ħajja, impriża tal-assigurazzjoni", għandhom jidhlu l-kliem "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni";

(iv) fil-paragrafu (b) tiegħu, minflok il-kliem, "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni fuq il-ħajja, impriża tal-assigurazzjoni", għandhom jidhlu l-kliem "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni";

(v) fil-paragrafu (ċ) tiegħu, minflok il-kliem "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni fuq il-ħajja, impriża tal-assigurazzjoni", għandhom jidhlu l-kliem "istituzzjoni ta' kreditu, impriża tal-assigurazzjoni";

(ċ) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "fl-artikolu 38A(2) lill-awtorità regolatorja barranija", għandhom jidhlu l-kliem "fl-artikolu 38A lill-awtorità regolatorja Ewropea";

(ii) minflok il-kliem "tikkomunika lill-awtorità regolatorja barranija", għandhom jidhlu l-kliem "tikkomunika lill-awtorità regolatorja Ewropea";

(iii) minflok il-kliem "espressa mill-awtorità regolatorja barranija", għandhom jidhlu l-kliem "espressa mill-awtorità regolatorja Ewropea";

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

"(3) Il-proċedura stabbilita fis-subartikoli (1) u (2) għandhom ikunu applikabbli *mutatis mutandis* meta l-akkwiredent propost ikun awtorizzat jew stabbilit f'pajjiż terz."

43. L-artikolu 38Ċ tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 38Ċ tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata tkun tista'", għandhom jidhlu l-kliem "impriża awtorizzata

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tkun tista'";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "ma' xi kumpannija oħra," għandhom jidhlu l-kliem "ma' xi impriza oħra,";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "ta' impriza awtorizzata";

(ii) minflok il-kliem "li dik il-kumpannija", għandhom jidhlu l-kliem "li dik l-impriza";

(c) fil-paragrafu li jiġi minnufih wara il-paragrafu (c) tas-subartikolu (3) tiegħu, minflok il-kliem "jew lill-kumpannija awtorizzata involuta", għandhom jidhlu l-kliem "jew lill-impriza awtorizzata konċernata";

(d) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "jew xi kumpannija awtorizzata", għandhom jidhlu l-kliem "jew xi impriza awtorizzata";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "jew kumpannija awtorizzata", għandhom jidhlu l-kliem "jew impriza awtorizzata";

(iii) fil-paragrafu (c) tiegħu, minflok il-kliem "jew kumpannija awtorizzata", għandhom jidhlu l-kliem "jew impriza awtorizzata";

(iv) fil-paragrafu (d) tiegħu, minflok il-kliem "jew kumpannija awtorizzata", għandhom jidhlu l-kliem "jew impriza awtorizzata"; u

(v) fil-paragrafu (e) tiegħu, minflok il-kliem "jew kumpannija awtorizzata", għandhom jidhlu l-kliem "jew impriza awtorizzata".

Emenda tal-
artikolu 39 tal-
Att prinċipali.

44. L-artikolu 39 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Kumpanniji li ma jibqgħux", għandhom jidhlu l-kliem "Imprizi li ma jibqgħux";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "jekk kumpannija awtorizzata", għandhom jidhlu l-kliem "jekk impriża tal-assigurazzjoni awtorizzata";

(ii) minflok il-kliem "dik il-kumpannija għandha,", għandhom jidhlu l-kliem "dik l-impriża għandha,";

(iii) minflok il-kliem "u l-kumpannija", għandhom jidhlu l-kliem "u l-impriża tal-assigurazzjoni awtorizzata";

(c) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriża tal-assigurazzjoni awtorizzata";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "lill-kumpannija", għandhom jidhlu l-kliem "lill-impriża";

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

"(b) tista' tehtieg lill-impriża taċċerta li l-provizjonijiet tekniċi tagħha jkunu konformi mal-htigiet tal-artikolu 18E.";

(d) fis-subartikolu (3) tiegħu:

(i) minflok il-kelma "kumpannija", għandhom jidhlu l-kliem "impriża tal-assigurazzjoni awtorizzata"; u

(ii) minflok il-kliem "lill-kumpannija" għandhom jidhlu l-kliem "lill-impriża tal-assigurazzjoni awtorizzata".

45. L-artikolu 40 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 40 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Kumpanniji li jagħmlu", għandhom jidhlu l-kliem "Impriži li jagħmlu"; u

(b) minflok il-kliem "Kull kumpannija li dwarha johroġ", għandhom jidhlu l-kliem "Kull impriża tal-assigurazzjoni awtorizzata li dwarha johroġ".

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Żjieda ta' artikolu 40A ġdid mal-Att prinċipali.

46. Minnufih wara l-artikolu 40 tal-Att prinċipali, għandu jiżded dan l-artikolu 40A ġdid li ġej:

"Impriża tar-rijassigurazzjoni li ma jibqgħux imexxu u li jagħmlu *servicing* jew *run-off* ta' kummerċ tal-assigurazzjoni.

40A. Id-dispożizzjonijiet tal-artikoli 39 u 40 għandhom japplikaw *mutatis mutandis* għal impriża li l-kummerċ tagħhom ikun ristrett għar-rijassigurazzjoni."

Emenda tal-artikolu 41 tal-Att prinċipali.

47. L-artikolu 41 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Xoljiment u stralċ ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "Organizzazzjoni mill-ġdid, xoljiment u stralċ ta' impriża awtorizzata.";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "dan l-artikolu, kull kumpannija awtorizzata li tmexxi l-kummerċ tal-assigurazzjoni għandha - ", għandhom jidhlu l-kliem "dan l-artikolu -";

(ii) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

"(a) fil-każ ta' impriża tal-assigurazzjoni awtorizzata li l-uffiċċju prinċipali tagħha jkun f'Malta:

(i) meta jiġu adottati xi miżuri ta' organizzazzjoni mill-ġdid dwar l-impriża, dawk il-miżuri għandhom ikunu applikati skont regolamenti magħmulin għall-finijiet ta' dan l-artikolu;

(ii) dik l-impriża għandha xxolji u konsegwenzjalment tistralċja taħt u skont regolamenti magħmulin taħt dan l-artikolu; u";

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

"(b) fil-każ ta' impriża tal-assigurazzjoni ta' pajjiż terz awtorizzata, ixxolji u tistralċja taħt u skont id-dispożizzjonijiet tal-liġijiet tal-pajjiż fejn

ikun sitwat l-uffiċċju prinċipali ta' dik l-impriza li jirregolaw ix-xoljiment u l-istralċ ta' dawk l-imprizi.";

(ċ) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni awtorizzata";

(ii) fil-paragrafu (a) tiegħu:

(aa) minflok il-kliem "fil-każ ta' kumpannija li l-uffiċċju prinċipali tagħha jkun f'Malta", għandhom jidhlu l-kliem "fil-każ ta' impriza li l-uffiċċju prinċipali tagħha jkun f'Malta";

(bb) minflok il-kliem "tal-attiv tal-kumpannija", għandhom jidhlu l-kliem "tal-attiv tal-impriza";

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

"(b) fil-każ ta' impriza tal-assigurazzjoni ta' pajjiż terz awtorizzata, tipprojbixxi d-disponiment hieles tal-attiv tal-impriza kemm jekk dak l-attiv ikun sitwat f'Malta jew f'pajjiż ieħor jew jekk dak l-attiv ikun relatat mal-kummerċ tal-impriza f'Malta,";

(d) fil-paragrafu minnufih wara l-paragrafu (b) tiegħu, minflok il-kliem "imposta fuq il-kumpannija", għandhom jidhlu l-kliem "imposta fuq l-impriza tal-assigurazzjoni";

(e) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "ta' kumpannija li", għandhom jidhlu l-kliem "ta' impriza tal-assigurazzjoni awtorizzata li";

(ii) minflok il-kliem "tal-kumpannija li joħorġu", għandhom jidhlu l-kliem "tal-impriza li joħorġu";

(f) fis-subartikolu (5) tiegħu, minflok il-kliem "japplikaw għal dawk il-kumpanniji.", għandhom jidhlu l-kliem "japplikaw għal dawk l-imprizi.";

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(g) fis-subartikolu (6) tiegħu:

(i) minflok il-kliem "ta' kumpanniji li jkollhom l-uffiċċju prinċipali tagħhom f'Malta", għandhom jidhlu l-kliem "ta' impriża tal-assigurazzjoni awtorizzata li l-uffiċċju prinċipali tagħhom jkun f'Malta,";

(ii) minflok il-kliem "ta' kumpanniji li jkollhom l-uffiċċju prinċipali tagħhom barra minn Malta", għandhom jidhlu l-kliem "ta' impriża tal-assigurazzjoni ta' pajjiż terz";

(iii) minflok il-kliem "ta' dawk il-kumpanniji jew ferġat ta' kumpanniji," għandhom jidhlu l-kliem "ta' dawk l-impriża jew ferġat ta' impriża,";

(h) minnufih wara is-subartikolu (6) tiegħu, għandhom jizdiedu dawn is-subartikoli (7) u (8) ġodda li ġejjin:

"(7) Meta impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tiddeċiedi li xxolji u tiġi stralċjata, din għandha minnufih tavża, bil-miktub, lill-awtorità kompetenti b'dik id-deċiżjoni qabel ma tiegħu xi azzjoni ulterjuri f'dik id-direzzjoni.

(8) (a) Impriża tar-rijassigurazzjoni awtorizzata li l-uffiċċju prinċipali tagħha jkun f'Malta għandha xxolji u tiġi stralċjata skont id-dispożizzjonijiet tal-Att dwar il-Kumpanniji.

(b) Impriża tar-rijassigurazzjoni ta' pajjiż terz għandha xxolji u tiġi stralċjata skont il-liġijiet tal-pajjiż fejn ikun sitwat l-uffiċċju prinċipali ta' dik l-impriża, li jirregolaw ix-xoljiment u l-istralċ ta' dawk l-impriża."

Emenda tal-artikolu 42 tal-Att prinċipali.

48. L-artikolu 42 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "kumpanniji awtorizzati f'kummerċ fit-tul.", għandhom jidhlu l-kliem "impriża awtorizzata li tmexxi kummerċ fit-tul.";

(b) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Impriża awtorizzata li l-uffiċċju prinċipali tagħha jkun f'Malta, li tmexxi kummerċ fit-tul ma tistax tiġi xolta u konsegwentement stralċjata volontarjament

mingħajr il-kunsens tal-awtorità kompetenti.";

(ċ) is-subartikoli (2) u (3) għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3) u (4) rispettivament;

(d) minnufih wara subartikolu (1) tiegħu, kif emendat, għandu jizjed dan is-subartikolu ġdid li ġej:

"(2) Ikun id-dmir ta' impriza awtorizzata u tad-diretturi tagħha, li javżaw lill-awtorità kompetenti minnufih malli jsiru jafu b'xi miżuri li għandhom jittiehdu kif hemm fis-subartikolu (1).";

(e) fis-subartikolu (3) tiegħu, kif enumerat mill-ġdid:

(i) minflok il-kliem "li kumpannija kif intqal qabel", għandhom jidhlu l-kliem "li impriza kif imsemmi qabel";

(ii) fil-paragrafu (a) tiegħu:

(aa) minflok il-kliem "mill-kumpannija", għandhom jidhlu l-kliem "mill-impriza";

(bb) minflok il-kliem "tal-kumpannija li joħorġu minn", għandhom jidhlu l-kliem "tal-impriza li joħorġu minn";

(iii) fil-paragrafu (b) tiegħu:

(aa) minflok il-kliem "tal-kumpannija jkun jista' jintuża", għandhom jidhlu l-kliem "tal-impriza jkun jista' jintuża";

(bb) minflok il-kliem "tal-kumpannija li joħorġu", għandhom jidhlu l-kliem "tal-impriza li joħorġu"; u

(f) fis-subartikolu (4) kif enumerat mill-ġdid, minflok il-kliem "fis-subartikolu (2)(a) jew (b) ikun iżjed mill-ammont tal-obbligazzjonijiet imsemmija f'kull wieħed mill-paragrafi, ir-restrizzjoni mposta", għandhom jidhlu l-kliem "fil-paragrafu (a) jew (b) tas-subartikolu (3) ikun iżjed mill-ammont tal-obbligazzjonijiet imsemmija fil-paragrafu jew ieħor, ir-restrizzjoni imposta".

49. L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 43 tal-Att prinċipali.

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(a) fis-subartikolu (1) tiegħu, minflok il-kliem "fid-dokumentazzjoni provduta", għandhom jidhlu l-kliem "fid-dokumentazzjoni jew informazzjoni provduta";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "kumpannija li jkollha l-uffiċċju prinċipali tagħha f'Malta awtorizzata taħt dan l-Att", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata li l-uffiċċju prinċipali tagħha jkun f'Malta";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "li jikkostitwixxi l-kumpannija", għandhom jidhlu l-kliem "li jikkostitwixxi l-impriza,";

(iii) fil-paragrafu (b) tiegħu:

(aa) minflok il-kliem "fil-kumpannija", għandhom jidhlu l-kliem "fl-impriza"; u

(bb) minflok il-kliem "dik l-informazzjoni għandha wkoll tiġi stabbilita b'dik ir-regola.", għandhom jidhlu l-kliem "dik l-informazzjoni għandha wkoll tiġi stabbilita b'dawk ir-Regoli.";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata", għandhom jidhlu l-kliem "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata"; u

(ii) minflok il-kliem "l-eżistenza ta' rabtiet mill-qrib kif imfisser fl-artikolu 8.", għandhom jidhlu l-kliem "l-eżistenza ta' rabtiet mill-qrib.".

Emenda tal-artikolu 44 tal-Att prinċipali.

50. L-artikolu 44 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "minn kumpanniji awtorizzati", għandhom jidhlu l-kliem "minn impriza awtorizzata";

(b) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "Ebda kumpannija awtorizzata", għandhom jidhlu l-kliem "Ebda impriza tal-assigurazzjoni awtorizzata";

(ii) minflok il-kliem "kemm-il darba dik il-kumpannija jew -", għandhom jidhlu l-kliem "kemm-il darba dik l-impriza jew -";

(ċ) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem "lill-kumpannija awtorizzata.", għandhom jidhlu l-kliem "lill-impriza awtorizzata."

51. Fil-paragrafu (a) tal-artikolu 45 tal-Att prinċipali, minflok il-kliem "isiru minn kumpannija", għandhom jidhlu l-kliem "isiru minn impriza tal-assigurazzjoni".

Emenda tal-artikolu 45 tal-Att prinċipali.

52. L-artikolu 47 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 47 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem "Fin-nuqqas ta' xi regola dwar l-assigurazzjoni bħal dik", għandhom jidhlu l-kliem "Fin-nuqqas ta' xi Regoli dwar l-Assigurazzjoni bħal dawk,"; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem "ma għandhomx japplikaw għal kumpannija", għandhom jidhlu l-kliem "m'għandhomx japplikaw għal impriza".

53. L-artikolu 48 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 48 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "Ebda kumpannija awtorizzata", għandhom jidhlu l-kliem "Ebda impriza tal-assigurazzjoni awtorizzata";

(ii) minflok il-kliem "iġġieghel li jinħareġ f'Malta, xi reklam jew tmexxi jew iġġieghel li titmexxa f'Malta xi attività promozzjonali", għandhom jidhlu l-kliem "iġġieghel li jinħareġ xi reklam jew tmexxi jew iġġieghel li titmexxa xi attività promozzjonali";

(b) fil-proviso mas-subartikolu (1) tiegħu, minflok il-kliem "fil-każ ta' kumpannija", għandhom jidhlu l-kliem "fil-każ ta' impriza";

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "japplikaw għal kumpannija", għandhom jidhlu l-kliem "japplikaw għal impriza";

(d) fis-subartikolu (4) tiegħu:

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(i) minflok il-kliem "Meta kumpannija", għandhom jidhlu l-kliem "Meta impriza";

(ii) minflok il-kliem "tista' toħroġ ordni lill-kumpannija -", għandhom jidhlu l-kliem "tista' toħroġ ordni lill-impriza -";

(e) fis-subartikolu (5) tiegħu:

(i) minflok il-kliem "Jekk kumpannija", għandhom jidhlu l-kliem "Jekk impriza";

(ii) minflok il-kliem "li l-kumpannija", għandhom jidhlu l-kliem "li l-impriza";

(iii) minflok il-kliem "tal-kumpannija konċernata", għandhom jidhlu l-kliem "tal-impriza konċernata".

Emenda tal-artikolu 48A tal-Att prinċipali.

54. L-artikolu 48A tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (1) tiegħu, għandu jidhol dan li ġej:

"(1) Għall-finijiet ta' dan l-artikolu, "sindakat" tfisser membru jew grupp ta' membri ta' Lloyd's li jissottoskrivu kummerċ tal-assigurazzjoni f'Lloyd's permezz tal-aġenzija ta' *managing agent* li jingħatalhom *syndicate number* partikolari minn jew taħt l-awtorità tal-Kunsill ta' Lloyd's.";

(b) is-subartikoli (2), (3), (4) u (5) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3), (4), (5) u (6) rispettivament;

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

"(2) Meta l-membri ta' Lloyd's imexxu kummerċ tal-assigurazzjoni f'Malta, dawn għandhom imexxu dak il-kummerċ fl-eżerċizzju ta' dritt Ewropew.";

(d) fis-subartikolu (3) tiegħu, kif enumerat mill-ġdid, il-kliem "Ir-rappreżentant għandu jinhatar b'ittra indirizzata lill-awtorità kompetenti miċ-*Chairman* ta' Lloyd's.", għandhom jithassru;

(e) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid, minnufih wara l-kliem "għad-djun u obbligi ta' Lloyd's jew ta' xi wiehed mill-membri tagħha", għandhom jiżdiedu l-kliem "u għaldaqstant ebda eżekuzzjoni ta' xi mandat kawtelatorju jew eżekuttiv kontra Lloyd's jew xi wiehed mill-membri tagħha m'għandha ssir kontra r-rappreżentant ġenerali ta' Lloyd's.";

(f) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "f'Malta in rappreżentanza ta' dawk il-membri kemm-il darba l-att ikun fih dikjarazzjoni", għandhom jidhlu l-kliem "f'Malta in rappreżentanza ta' dawk il-membri; kemm-il darba l-att li bih jibdedw il-proċeduri jkun fih dikjarazzjoni";

(g) fit-test Inġliż, fis-subartikolu (6) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "if they has been named", għandhom jidhlu l-kliem "if they had been named";

(h) minnufih wara s-subartikolu (6) tiegħu, kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

"(7) Kull att ġudizzjarju pprezentat minn jew kontra Lloyd's jew xi wiehed mill-membri tagħha in konnessjoni f'dak li għandu x'jaqsam ma' xi polza sottoskritta minnhom għandu jiġi notifikat lir-rappreżentant ġenerali ta' Lloyd's f'Malta fl-indirizz tiegħu reġistrat f'Malta."

55. Minflok l-artikolu 48B tal-Att prinċipali, għandu jidhol dan li ġej:

Emenda tal-artikolu 48B tal-Att prinċipali.

"Hatra ta' intermedjarji tal-assigurazzjoni.

48B. Kull impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata għandha tagħmel użu mis-servizzi ta' intermedjarji tal-assigurazzjoni li jkunu:

Kap. 487.

(a) reġistrati taħt l-Att dwar Intermedjarji fl-Assigurazzjoni; jew

(b) reġistrati taħt l-Artikolu 3 tad-Direttiva 2002/92/KE tal-Parlament Ewropew u tal-Kunsill tad-9 ta' Diċembru 2002 dwar il-medjazzjoni fl-assigurazzjoni, kif emendat minn żmien għal żmien; jew

(c) reġistrati jew regolati biex iwettqu dawk is-servizzi fi Stat mhux Membru jew fi Stat mhux ŻEE skont id-dispożizzjonijiet tal-ligijiet applikabbli f'dak l-Istat."

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Żjeda tal-artikolu 48Ċ ġdid mal-Att prinċipali.

56. Minnufih wara l-artikolu 48B tal-Att prinċipali, għandu jiżdied dan l-artikolu 48Ċ ġdid li ġej:

"Kundizzjonijiet tal-polza u skali ta' *premiums*."

48Ċ. (1) Impriża awtorizzata m'għandiex tkun meħtieġa li tissottometti lill-awtorità kompetenti għall-approvazzjoni tagħha minn qabel jew tinnotifika sistematikament lil awtorità kompetenti:

(a) bil-kundizzjonijiet ġenerali u speċjali tal-polza, bi skali ta' *premiums*, bil-bażijiet tekniċi, li partikolarment jintużaw fil-kalkolu ta' skali ta' *premiums* u provizzjonijiet tekniċi, jew b'formoli u dokumenti oħra stampati li l-impriża awtorizzata tkun bi ħsiebha tuża fit-negożjati tagħha ma' detenturi ta' polza jew ma' impriži ċedenti jew retro-ċedenti;

(b) b'rati ta' *premium* jew żidiet proposti tar-rati ta' *premium*, hliet biss bħala parti mis-sistemi ġenerali ta' kontroll tal-prezzijiet.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), l-awtorità kompetenti tista' teħtieġ:

(a) dwar kummerċ ġenerali, notifika tal-kundizzjonijiet tal-polza, dokumenti oħra u l-informazzjoni msemmija fis-subartikolu (1) bl-għan li tiġi verifikata l-konformità mal-liġi applikabbli għal kuntratti tal-assigurazzjoni;

(b) dwar kummerċ fit-tul, notifika tal-bażijiet tekniċi li partikolarment jintużaw fil-kalkolu ta' skali ta' *premiums* u provizzjonijiet tekniċi bl-għan ewlieni li tiġi verifikata l-konformità ma' xi prinċipji attwarji li jistgħu jiġu stabbiliti b'dan l-Att, regolamenti jew Regoli dwar l-Assigurazzjoni maħruġin tahtu."

Emenda tal-artikolu 49 tal-Att prinċipali.

57. Fil-paragrafu (a) tal-artikolu 49 tal-Att prinċipali, minflok il-kliem "kontra kumpannija awtorizzata li tmexxi l-kummerċ tal-assigurazzjoni f'Malta, li jibqgħu ma jithallsux minhabba fl-insolvibbiltà ta' dik il-kumpannija," għandhom jidhlu l-kliem "kontra impriża tal-assigurazzjoni li tmexxi kummerċ tal-assigurazzjoni f'Malta, li jibqgħu ma jithallsux minhabba fl-insolvibbiltà ta' dik l-impriża,".

58. Is-subartikolu (2) tal-artikolu 50 tal-Att prinċipali, għandu jġi emendat kif ġej: Emenda tal-artikolu 50 tal-Att prinċipali.

(a) minflok il-kliem "Il-kumpanniji kollha li huma awtorizzati taht dan l-Att li jmexxu kummerċ tal-assigurazzjoni f'Malta", għandhom jidhlu l-kliem "L-imprizi kollha tal-assigurazzjoni, kif preskritt fir-regolamenti, li jmexxu kummerċ tal-assigurazzjoni f'Malta";

(b) minflok il-kliem "kull xorta ta' kumpanniji awtorizzati,", għandhom jidhlu l-kliem "kull xorta ta' imprizi tal-assigurazzjoni,".

59. L-artikolu 51 tal-Att prinċipali għandu jġi emendat kif ġej: Emenda tal-artikolu 51 tal-Att prinċipali.

(a) fl-ewwel proviso li hemm miegħu:

(i) minflok il-kliem "minn kumpanniji awtorizzati li jmexxu kummerċ fit-tul", għandhom jidhlu l-kliem "minn imprizi li jmexxu kummerċ fit-tul";

(ii) minflok il-kliem "minn kumpanniji awtorizzati li jmexxu kummerċ ġenerali", għandhom jidhlu l-kliem "minn imprizi li jmexxu kummerċ ġenerali"; u

(b) fit-tieni proviso li hemm miegħu, minflok il-kliem "fil-kumpannija insolventi u li jkollha għoxrin fil-mija jew iżjed tal-ishma maħruġa ta' dik il-kumpannija.", għandhom jidhlu l-kliem "fl-impriza insolventi u li jkollha għoxrin fil-mija jew iżjed tal-ishma maħruġa ta' dik l-impriza.".

60. Fil-paragrafu (a) tal-artikolu 52 tal-Att prinċipali, minflok il-kliem "l-isem tal-kumpannija jġi mħassar minn fuq ir-reġistru jew dik il-kumpannija", għandhom jidhlu l-kliem "isem l-impriza jġi mħassar minn fuq ir-reġistru jew dik l-impriza". Emenda tal-artikolu 52 tal-Att prinċipali.

61. Minflok l-artikolu 55 tal-Att prinċipali, għandu jidhol dan li ġej: Sostituzzjoni tal-artikolu 55 tal-Att prinċipali.

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"Kooperazzjoni fi dmirijiet superviżorji u skambju ta' informazzjoni.

55. (1) Minkejja d-dispożizzjonijiet tal-artikolu 59, l-awtorità kompetenti għandha tikkoopera u tiskambja informazzjoni:

(a) ma' awtoritajiet regolatorji Ewropej, u mal-Kummissjoni Ewropea bil-għan li tiffacilita s-superviżjoni tal-assigurazzjoni u tar-rijassigurazzjoni fi hdan l-Unjoni Ewropea u l-applikazzjoni tad-Direttiva Solvibbiltà II;

(b) ma' awtoritajiet regolatorji barranin għall-finijiet tal-eżercizzju ta' xi wiehed jew aktar mill-funzjonijiet regolatorji tagħhom;

(ċ) ma' awtoritajiet jew korpi, jew persuni elenkati fis-subartikolu (2).

(2) L-awtorità kompetenti għandha tikkoopera u tiskambja informazzjoni ma':

(a) awtoritajiet responsabbli għas-superviżjoni ta' istituzzjonijiet ta' kreditu u organizzazzjonijiet finanzjarji oħra u mal-awtoritajiet responsabbli għas-superviżjoni ta' swieq finanzjarji;

(b) korpi involuti fil-likwidazzjoni u l-insolvibbiltà ta' imprizi tal-assigurazzjoni jew tar-rijassigurazzjoni u fi proċeduri oħra simili;

(ċ) l-awtoritajiet responsabbli għas-sorveljanza tal-korpi involuti fil-likwidazzjoni u l-insolvibbiltà ta' imprizi tal-assigurazzjoni, imprizi tar-rijassigurazzjoni u proċeduri oħra simili;

(d) persuni responsabbli biex jagħmlu awditjar statutorju tal-kontijiet ta' imprizi tal-assigurazzjoni, imprizi tar-rijassigurazzjoni u istituzzjonijiet finanzjarji oħra;

(e) korpi li jamministraw proċeduri ta' stralc obbligatorji jew fondi ta' garanzija, meta dik l-informazzjoni tkun meħtieġa biex iwettqu dmirijietom;

(f) l-awtoritajiet jew korpi responsabbli għall-kxif u investigazzjoni ta' ksur tal-liġijiet dwar il-kumpanniji;

(g) l-awtoritajiet responsabbli għas-sorveljanza tal-persuni inkarigati biex jagħmlu verifiki statutorji tal-kontijiet ta' imprizi tal-assigurazzjoni, imprizi tar-rijassigurazzjoni, istituzzjonijiet ta' kreditu, ditti ta' investiment u istituzzjonijiet finanzjarji oħra;

(h) attwarji maħtura minn imprizi tal-assigurazzjoni jew tar-rijassigurazzjoni li jagħmlu xogħol attwarjali dwar dawk l-imprizi u l-korpi responsabbli għas-sorveljanza ta' dawk l-attwarji.

(3) Għall-finijiet tal-iskambji ta' informazzjoni msemmija fil-paragrafi (ċ), (g) u (h) tas-subartikolu (2), għandhom mill-inqas jiġu adottati dawn il-kundizzjonijiet li ġejjin minn min jirċievi dik l-informazzjoni:

(a) l-informazzjoni meħtieġa għandu jkollha l-għan li titwettaq is-sorveljanza jew superviżjoni tal-funzjonijiet jew attivitajiet ta' dawk l-awtoritajiet, korpi jew persuni;

(b) l-informazzjoni li dawk l-awtoritajiet, korpi jew persuni jirċievu għandha tkun soġġetta għad-dmir ta' segretezza professjonali;

(ċ) meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha toriġina minn awtorità regolatorja Ewropea jew minn xi awtorità regolatorja barranija, din ma tistax tiġi żvelata mingħajr il-kunsens espress tal-awtorità regolatorja Ewropea jew tal-awtorità regolatorja barranija li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha.

(4) Għall-finijiet ta' skambji ta' informazzjoni msemmija fil-paragrafu (f) tas-subartikolu (2), l-awtorità kompetenti għandha tiżgura illi, dawn il-kundizzjonijiet li ġejjin għandhom mill-inqas jiġu adottati minn min jirċievi dik l-informazzjoni:

(a) l-informazzjoni skambjata għandha tkun maħsuba għat-*tkixxif* u l-investigazzjoni ta' ksur ta' liġijiet dwar il-kumpanniji;

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(b) l-informazzjoni riċevuta għandha tkun soġġetta għad-dmir ta' segretezza professjonali;

(ċ) meta l-informazzjoni li l-awtorità kompetenti jkollha fil-pussess tagħha toriġina minn awtorità regolatorja Ewropea jew minn awtorità regolatorja barranija, din ma tistax tiġi żvelata mingħajr il-kunsens espress tal-awtorità regolatorja Ewropea jew tal-awtorità regolatorja barranija li tkun ittrasmettiet u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha;

(d) dak ir-riċevent għandu jipprovdi l-isem u r-responsabbiltajiet tal-persuni li tintbagħtilhom dik l-informazzjoni:

Iżda, meta l-awtoritajiet jew il-korpi jwettqu l-ħidmiet tagħhom ta' kxif jew investigazzjoni bl-assistenza ta' persuni maħtura għal dak il-għan, minħabba fil-kompetenza speċifika tagħhom, u dawk il-persuni ma jkunux impjegati ma' dawk il-korpi jew persuni, dik l-informazzjoni tista' tiġi biss skambjata ma' dawk il-persuni jekk il-kundizzjonijiet stipulati f'dan is-subartikolu jkunu mharsa.

(5) L-awtorità kompetenti għandha tikkomunika lill-Kummissjoni u lil Stati Membri oħra jew Stati ŻEE l-ismijiet tal-awtoritajiet, persuni jew korpi li jistgħu jirċievu informazzjoni kif hawn f'dan l-artikolu.

(6) (a) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu u tal-artikolu 59, l-awtorità kompetenti tista' tittrasmetti informazzjoni ntiza għat-tweqqif tal-ħidma tagħhom lil dawn li ġejjin:

(i) il-Bank Ċentrali ta' Malta, il-banek ċentrali tas-Sistema Ewropea ta' Banek Ċentrali, (inkluż il-Bank Ċentrali Ewropew) u korpi oħra li jkollhom funzjoni bħal dik fil-kapaċità tagħhom bħala awtoritajiet monetarji meta din l-informazzjoni tkun rilevanti għall-ħidmiet statutorji rispettivi tagħhom, inkluża t-tmexxija ta' politika monetarja u l-provdiment ta' likwidità relatata, is-sorveljanza ta' hlas, sistemi ta' *clearing* u ta' hlas għas-saldu u l-harsien tal-istabbiltà tas-sistema finanzjarja;

(ii) meta jkun adatt, awtoritajiet nazzjonali pubbliċi oħra responsabbli għas-sorveljanza ta' sistemi ta' pagament; u

(iii) il-Bord Ewropew dwar Riskji Sistemici, meta dik l-informazzjoni tkun rilevanti għat-twettiq ta' hidmietu;

(b) F'sitwazzjoni ta' emergenza, inkluża sitwazzjoni kif imsemmija fl-Artikolu 18 tar-Regolament (UE) Nru. 1094/2010, l-awtorità kompetenti għandha tikkomunika, mingħajr dewmien, informazzjoni lill-banek ċentrali tas-Sistema Ewropea ta' Banek Ċentrali (inkluż il-Bank Ċentrali Ewropew) meta dik l-informazzjoni tkun rilevanti għal hidmiet statutorji tagħhom, inkluża t-tmexxija ta' politika monetarja u l-provdiment ta' likwidità relatata, is-sorveljanza ta' hlas, sistemi ta' *clearing* u ta' hlas għas-saldu u l-harsien tal-istabbiltà tas-sistema finanzjarja, u l-Bord Ewropew dwar Riskji Sistemici, meta dik l-informazzjoni tkun rilevanti għat-twettiq ta' hidmietu.

(ċ) Dawk l-awtoritajiet jew korpi jistgħu wkoll jikkomunikaw lill-awtorità kompetenti dik l-informazzjoni li dawn jistgħu jkun jeħtieġu għall-finijiet tal-artikolu 59(4).

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(7) Bla hsara għall-artikolu 59, l-awtorità kompetenti tista' tiskambja informazzjoni ma' dipartimenti ta' amministrazzjonijiet tal-gvern ċentrali ta' Stati Membri oħra responsabbli għal leġislazzjoni dwar is-superviżjoni ta' istituzzjonijiet ta' kreditu, istituzzjonijiet finanzjarji, servizzi ta' investiment u imprizi tal-assigurazzjoni u rijassigurazzjoni u ma' spetturi li jaġixxu f'isem dawk id-dipartimenti iżda:

(a) dak il-kxif jista' jsir biss meta dan ikun meħtieġ għal raġunijiet ta' kontroll prudenzjali;

(b) il-persuni li jkollhom aċċess għal dik l-informazzjoni għandhom ikunu soġġetti għas-segretezza professjonali.

(8) Bla hsara għad-disposizzjoni ta' qabel ta' dan l-artikolu, l-awtorità kompetenti tista' teżerċita dawn is-setgħat li ġejjin meta tagħmel talba għal, jew għall-finijiet li tassisti, lil awtorità regolatorja Ewropea jew lil awtorità regolatorja barranija:

(a) is-setgħa li timponi, tirrevoka jew tvarja l-kundizzjonijiet meta tingħata awtorizzazzjoni konformement mad-dispożizzjonijiet tal-artikolu 7;

(b) is-setgħa li tissospendi jew tirrevoka awtorizzazzjoni taħt l-artikolu 26;

(ċ) is-setgħa li tieħu xi azzjoni taħt l-artikolu 28, minflok jew b'żjieda ma' xi sospensjoni jew revoka ta' awtorizzazzjoni;

(d) is-setgħa li teħtieġ informazzjoni u dokumentazzjoni taħt l-artikolu 29;

(e) is-setgħa li taħtar spetturi taħt l-artikolu 30;

(f) is-setgħa ta' aċċess biex tikseb informazzjoni u dokumentazzjoni taħt l-artikolu 31;

(g) is-setgħa li toħroġ direttiva taħt l-artikolu 31A;

(h) is-setgħa li tikkomunika lil awtorità regolatorja Ewropea informazzjoni li jkollha fil-pussess tagħha, sew jekk dik l-informazzjoni tkun rizultat ta' xi setgħa minn dawk imsemmija hawn fuq sew jekk xort'oħra; u

(i) is-setgħa li tipprojbixxi d-disponiment hieles tal-attiv tal-impriza li jinsab f'Malta fiċ-ċirkostanzi msemmija fl-Artikoli 137 sa 139 u Artikolu 144(2) tad-Direttiva Solvibilità II; l-Istat Membru domestiku tal-impriza għandu jsemmi liema attiv għandu jkun kopert minn dawk il-miżuri.

(9) Għandhom isiru laqgħat bejn impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata, l-udituri approvati tagħha, u, fil-każ ta' impriza awtorizzata biex tmexxi kummerċ fit-tul, l-attwarju approvat tagħha u l-awtorità kompetenti fuq bażi bilaterali jew multilaterali hekk kif jistgħu jeħtieġu ċ-ċirkostanzi. Dawk il-laqgħat jistgħu jissejhu minn kull waħda mill-partijiet, u għandhom f'kull każ ikunu presjeduti mill-awtorità kompetenti."

62. Minnufih wara l-artikolu 55 tal-Att prinċipali, għandhom jizdiedu dawn l-artikoli ġodda li ġejjin:

Żjieda tal-artikoli 55A u 55B ġodda mal-Att prinċipali.

"Kooperazzjoni mal-EIOPA.

55A. (1) L-awtorità kompetenti għandha tikkoopera mal-EIOPA għall-finijiet tad-Direttiva Solvibilità II skont ir-Regolament (UE) Nru. 1094/2010.

(2) L-awtorità kompetenti għandha tipprovdi lill-EIOPA kull informazzjoni meħtieġa biex twettaq dmirijietha skont ir-Regolament (UE) Nru. 1094/2010.

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Kooperazzjoni
ma' pajjizi
terzi.

55B. (1) L-awtorità kompetenti tista' tagħmel kull ftehim ta' kooperazzjoni mal-awtoritajiet regolatorji barranin jew ma' daww l-awtoritajiet jew korpi kif imfissra fl-artikolu 55(2), f'pajjizi li ma jkunux Stati Membri jew Stati ŻEE biss jekk l-informazzjoni żvelata tkun soġġetta għall-garanziji ta' segretezza professjonali li jkunu mill-inqas ekwivalenti għal daww meħtieġa taħt l-artikoli 55 u 59. Dak l-iskambju ta' informazzjoni għandu jkun intiż għat-twettiq tal-hidma superviżorja ta' daww l-awtoritajiet regolatorji barranin, awtoritajiet jew korpi.

(2) Meta l-informazzjoni li għandha tiġi żvelata mill-awtorità kompetenti lill-awtoritajiet jew korpi msemmija fis-subartikolu (1), tkun oriġinat minn awtorità regolatorja Ewropea, din tista' tiġi biss żvelata lil awtorità regolatorja barranija bil-kunsens espress ta' dik l-awtorità regolatorja Ewropea li tkun ittrasmettietha u, meta jkun adatt, unikament għall-finijiet li dwarhom dik l-awtorità tkun tat il-kunsens tagħha."

Emenda tal-
artikolu 56 tal-
Att prinċipali.

63. L-artikolu 56 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tas-subartikolu (1) tiegħu, minflok il-kliem "attwarju ta' kumpannija," għandhom jidhlu l-kliem "attwarju ta' impriża,";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "kumpannija awtorizzata," għandhom jidhlu l-kliem "impriza awtorizzata,";

(c) fis-subartikolu (3) tiegħu, minflok il-kliem "il-kumpannija li dwarha", għandhom jidhlu l-kliem "l-impriza li dwarha";

(d) fis-subartikolu (4) tiegħu, minflok il-kliem "u tal-kumpanniji awtorizzati, tagħmel regoli", għandhom jidhlu l-kliem "u tal-imprizi awtorizzati, tagħmel regoli".

Emenda tal-
artikolu 57 tal-
Att prinċipali.

64. Fil-proviso mas-subartikolu (4) tal-artikolu 57 tal-Att prinċipali, minflok il-kliem "magħmula taħt l-imsemmi artikolu 21(13)", għandhom jidhlu l-kliem "magħmula taħt l-imsemmi artikolu 21".

Emenda tal-
artikolu 58 tal-
Att prinċipali.

65. L-artikolu 58 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "kull persuna li thossha aggravata b'deċiżjoni tal-awtorità kompetenti", għandhom jidhlu l-kliem "jista' jsir appell lit-Tribunal għas-Servizzi Finanzjarji dwar -";

(ii) il-paragrafi (a), (b), (ċ), (d), (e), u (f) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (b), (ċ), (d), (g), (h) u (i) rispettivament;

(iii) minnufih qabel il-paragrafu (b) tiegħu, kif enumerat mill-ġdid, għandu jiżdied dan il-paragrafu ġdid li ġej:

"(a) kull nuqqas li tgħarraf lil applikant fiż-żmien provdut fis-subartikolu (9) jew (10) tal-artikolu 7;"

(iv) fil-paragrafu (b) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li tirrifjuta", għandhom jidhlu l-kliem "kull rifjut";

(v) fil-paragrafu (ċ) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li timponi xi kundizzjoni", għandhom jidhlu l-kliem "kull kundizzjoni imposta";

(vi) fil-paragrafu (d) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li tissospendi jew tirrevoka", għandhom jidhlu l-kliem "kull sospensjoni jew revoka ta'";

(vii) minnufih wara l-paragrafu (d) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

"(e) xi waħda jew aktar mill-mizuri meħuda taht l-artikolu 28;

(f) kull direttiva mogħtija taht l-artikolu 31A;"

(viii) fil-paragrafu (g) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li tirrifjuta" għandhom jidhlu l-kliem "kull rifjut ta'";

(ix) fil-paragrafu (h) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li toħroġ xi avviz jew tagħmel xi ordni", għandhom jidhlu l-kliem "kull avviz maħruġ jew

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ordni magħmula";

(x) fil-paragrafu (i) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li timponi penali amministrattiva", għandhom jidhlu l-kliem "kull penali amministrattiva imposta";

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

Kap. 330. "(2) Id-dispożizzjonijiet tal-artikolu 21 tal-Att dwar Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom ikunu japplikaw *mutatis mutandis* għal appelli li jistgħu jsiru quddiem it-Tribunal taht dan artikolu."; u

(c) is-subartikolu (3) tiegħu għandu jithassar.

Emenda tal-artikolu 59 tal-Att prinċipali.

ġej:

66. L-artikolu 59 tal-Att prinċipali għandu jiġi emendat kif

(a) is-subartikolu (1) tiegħu għandu jiġi mħassar;

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1);

(c) fis-subartikolu (1) tiegħu, kif enumerat mill-ġdid:

(i) minflok il-kliem "aġenti tagħha, kif ukoll minn spetturi, udituri u esperti mqabbdha mill-awtorità kompetenti", għandhom jidhlu l-kliem "aġenti, inklużi uffiċjali, impjegati jew aġenti tal-imġhoddi, kif ukoll minn spetturi, udituri u esperti li jaġixxu f'isem l-awtorità kompetenti";

(ii) minflok il-kliem "mid-dmir ta' segretezza professjonali, u ma għandha tiġi żvelata lil ebda persuna oħra, hlief f'dawn il-każijiet li ġejjin:", għandhom jidhlu l-kliem "mid-dmir ta' segretezza professjonali.";

(iii) il-paragrafi (a) sa (i) tiegħu għandhom jithassru;

(d) is-subartikoli (3) to (6) tiegħu għandhom jithassru;

(e) minnufih wara s-subartikolu (1) tiegħu, kif enumerat mill-ġdid, għandhom jizdiedu dawn is-subartikoli (2) sa (6) godda li ġejjin:

"(2) Bla hsara għall-kazijiet koperti taht il-ligi kriminali, il-persuni msemmija fis-subartikolu (1) m'għandhomx jiżvelaw informazzjoni miksuba minn impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata kemm-il darba dak il-kxif ta' informazzjoni ma jisrx f'forma sommarja jew aggregata, hekk li ma tkunx tista' tiġi aċċertata l-identità ta' dik l-impriża, li t-tagħrif ikun jirreferi għalihom:

Iżda, dawk il-persuni jistgħu jiżvelaw informazzjoni kunfidenzjali waqt proċedimenti ċivili jew kummerċjali meta xi impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata tkun giet dikjarata insolventi jew tkun qegħda tiġi stralcjata b' mod obligatorju, sakemm dik l-informazzjoni ma tkunx tolqot lil terzi li jkunu involuti f'tentattivi biex isalvaw lil dik l-impriża.

(3) Ebda haġa f'dan l-Att m'għandha tawtorizza lill-awtorità kompetenti tistharreġ jew iġġieghel li jsir stħarriġ f'impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata fl-affarijiet ta' xi detentur individwali ta' polza tal-impriża tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata h'ief bil-ghan li tiġi żgurata konformità ma' kull waħda mid-dispożizzjonijiet ta' dan l-Att jew ta' xi Att ieħor.

(4) Meta l-awtorità kompetenti tircievi informazzjoni kunfidenzjali mingħand awtorità regolatorja Ewropea taht dan l-artikolu u l-artikolu 55 hija tista' biss tuza dik l-informazzjoni kunfidenzjali waqt li tkun qegħda twettaq dmirijietha u għal dawn l-għanijiet li ġejjin:

(a) biex tivverifika li l-kundizzjonijiet li jirregolaw it-tmexxija ta' kummerċ tal-assigurazzjoni jew tar-rijassigurazzjoni huma mharsa u biex jiffaċilitaw il-monitoraġġ tat-tmexxija ta' dak il-kummerċ speċjalment f'dak li hu moniteragġ tal-provizjonijiet tekniċi, il-Kapital Rekwizit għas-Solvibbiltà, il-Kapital Minimu Rekwizit u s-sistema ta' governanza;

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(b) biex timponi penalitajiet jew tadotta miżuri amministrattivi oħra u tikkunsidra rappreżentazzjonijiet li jaslulha dwarhom;

(ċ) f'appelli kontra deċiżjonijiet tal-awtorità kompetenti taħt l-artikolu 58;

(d) fi proċedimenti ġudizzjarji taħt id-Direttiva Solvibilità II.

(5) Meta uffiċjal jew impjegat ta' impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata jkollu għaliex jaħseb li xi transazzjoni jew transazzjoni proposta tkun tista' tinvolvi *money laundering* jew finanzjar ta' terroriżmu, huwa għandu jaġixxi b'mod konformi mar-rappurtar u obbligi oħra stabbiliti fir-regolamenti magħmulin taħt l-artikolu 12 tal-Att *kontra Money Laundering*, u kull proċedura u gwida maħruġa taħtu, u dak il-kxif m'għandux ikun jikkostitwixxi ksur ta' kunfidenzjalità.

Kap. 373.

(6) IF'dan l-artikolu, kull referenza għal agenti għandha l-istess tifsira kif mogħtija lilha fl-artikolu 30(10)."

Emenda tal-artikolu 60 tal-Att prinċipali.

ġej:

67. L-artikolu 60 tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "jew detenturi prospettivi ta' polza -", għandhom jidhlu l-kliem "detenturi prospettivi ta' polza, persuni assigurati, kull min iressaq xi talba jew partijiet oħra relatati -";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "bejn kumpanniji", għandhom jidhlu l-kliem "bejn imprizi tal-assigurazzjoni";

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

Kap. 440

"(2) Minkejja d-dispożizzjonijiet tal-Att dwar il-Protezzjoni u l-Privatezza tad-Data, il-ġbir, użu, hażna u trasmissjoni ta' informazzjoni għall-finijiet tal-iskambju tad-data personali msemmija fis-subartikolu (1) għandha titqies bħala miżura meħtieġa għall-prevenzjoni, kxif jew soppresjoni ta' frodi fl-assigurazzjoni."

68. L-artikolu 61 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 61 tal-Att prinċipali.

(a) minflok il-kliem "jew xi regolamenti magħmula", għandhom jidhlu l-kliem "jew xi regolamenti jew Regoli dwar l-Assigurazzjoni magħmula";

(b) fil-paragrafu (e) tiegħu, minflok il-kliem "lil uffiċjal, jew lil skrivan ta' dak il-korp jew lil persuna msemmija minn dak il-korp taht l-artikolu 11(1)(d)(i) jew l-artikolu 48A(2), skont kif ikun il-każ;", għandhom jidhlu l-kliem "lil uffiċjal, segretarju, jew skrivan ta' dak il-korp jew lil persuna msemmija minn dak il-korp għal dak l-għan kif jista' jkun il-każ; jew"; u

(ċ) minnufih wara l-paragrafu (e) tiegħu, għandu jizdied il-paragrafu ġdid li ġej:

"(f) fil-każ ta' impriża tal-assigurazzjoni jew tar-rijassigurazzjoni ta' pajjiż terz jew Lloyd's, ikun ingħata jew ġie notifikat lill-persuna msemmija taht l-artikolu 11(1)(b)(i) jew l-artikolu 48A(3), rispettivament;".

69. L-artikolu 62 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 62 tal-Att prinċipali.

(a) fin-nota marginali li hemm miegħu, minflok il-kliem "Tkompilja ta' kumpanniji li jmexxu kummerċ ta' assigurazzjoni, *manager* fl-assigurazzjoni jew *broker* fl-assigurazzjoni.", għandhom jidhlu l-kliem "Tkompilja ta' impriži li jmexxu kummerċ tal-assigurazzjoni, jew kumpanniji iskritti bħala *manager* fl-assigurazzjoni jew *broker* fl-assigurazzjoni.";

(b) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (a) tiegħu:

(aa) minflok il-kliem "bħala kumpannija li tmexxi kummerċ ta' assigurazzjoni", għandhom jidhlu l-kliem "bħala impriża li tmexxi kummerċ tal-assigurazzjoni jew kumpannija iskritta biex taġixxi bħala *manager* fl-assigurazzjoni jew *broker* fl-assigurazzjoni taht l-Att dwar l-Intermedjarji fl-Assigurazzjoni";

(bb) minflok il-kliem "taht dan l-Att; u",

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għandhom jidhlu l-kliem "awtorizzata taht dan l-Att jew iskritta taht l-Att dwar l-Intermedjarji fl-Assigurazzjoni; u";

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "kumpannija li tmexxi kummerç ta' assigurazzjoni awtorizzata taht dan l-Att", għandhom jidhlu l-kliem "impriza awtorizzata li tmexxi kummerç tal-assigurazzjoni taht dan l-Att jew kumpannija iskritta biex taġixxi bhala *manager* fl-assigurazzjoni jew *broker* fl-assigurazzjoni taht l-Att dwar l-Intermedjarji fl-Assigurazzjoni"; u

(iii) fil-paragrafu li jiġi minnufih wara il-paragrafu (b) tiegħu, minflok il-kliem "dawk il-korpi ġuridici jew kumpanniji li jmexxu kummerç ta' assigurazzjoni,", għandhom jidhlu l-kliem "dawk il-korpi, imprizi jew kumpanniji,";

(c) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "l-imsemmija korp jew kumpannija", għandhom jidhlu l-kliem "l-imsemmija korp, impriza jew kumpannija";

(ii) fil-paragrafu minnufih wara l-paragrafu (b) tiegħu:

(aa) minflok il-kliem "t-tkomplija ta' kumpannija li tmexxi kummerç tal-assigurazzjoni bhala korp ġuridiku taht ġurisdizzjoni barranija ma jkollhiex", għandhom jidhlu l-kliem "it-tkomplija ta' impriza jew kumpannija kif imsemmi fil-paragrafu (b) tas-subartikolu (1), bhala korp ġuridiku taht ġurisdizzjoni barranija, ma jkollhiex";

(bb) minflok is-subparagrafu (ii) tiegħu, għandu jidhol dan li ġej:

"(ii) dik it-tkomplija (jew proçess simili) tħaddem it-tkomplija tal-eżistenza korporata tal-impriza jew kumpannija bhala, jew il-konverżjoni tagħha f'korp ġuridiku li jkompli jzomm jew li jiret l-attiv, id-drittijiet, u l-passiv kollu ta' dik l-impriza jew kumpannija.";

(d) minflok is-subartikolu (3) tiegħu, għandu jidhol dan

li ġej:

"(3) F'dan l-artikolu, riferenza għal "kumpannija" għandha tinkludi riferenza għal soċjetà *en commandite* jew għal korp ġuridiku simili jew ekwivalenti li l-kapital tiegħu hu diviż f'ishma.";

(e) fis-subartikolu (4) tiegħu, minflok il-kliem "dwar il-kontinwazzjoni ta' kumpanniji.", għandhom jidhlu l-kliem "dwar it-tkomplija ta' imprizi jew kumpanniji.".

70. L-artikolu 63 tal-Att prinċipali għandu jithassar.

Emenda tal-artikolu 63 tal-Att prinċipali.

71. L-artikolu 64 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 64 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (b) tiegħu, minflok il-kliem "kull kumpannija awtorizzata", għandhom jidhlu l-kliem "kull impriza awtorizzata";

(ii) il-paragrafi (d) u (e) tiegħu għandhom jithassru;

(iii) il-paragrafi (f), (g), (h) u (i) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (d), (e), (f) u (g) rispettivament;

(b) is-subartikolu (3) tiegħu għandu jiġi mħassar;

(ċ) is-subartikoli (4), (5), u (6) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (3), (4) u (5), rispettivament;

(d) is-subartikolu (3) tiegħu, kif enumerat mill-ġdid, għandu jiġi sostitwit b'dan li ġej:

"(3) Il-Ministru jista' wara konsultazzjoni mal-awtorita' kompetenti, jagħmel regolamenti biex jiddetermina u jirregola xi kwistjoni li jkollha x'taqsam ma' kuntratti ta' *finite reinsurance*, attivitajiet ta' *finite reinsurance*, inklużi l-identifikazzjoni, il-kejl, monitoraġġ, maniġġ, kontroll u rappurtar tar-riskji li joriginaw minn dawk il-kuntratti jew attivitajiet.";

(e) fis-subartikolu (4) tiegħu, kif enumerat mill-ġdid,

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minflok il-kliem "kif definiti mid-Direttiva 2005/68/KE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' Novembru 2005 dwar rijassigurazzjoni u li temenda d-Direttivi tal-Kunsill 73/239/KEE, 92/49/KEE, kif ukoll id-Direttivi 98/78/KE u 2002/83/KE", għandhom jidhlu l-kliem "kif definiti mid-Direttiva Solvibilità II";

(f) fis-subartikolu (5) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "biex jeżenta lil xi persuna jew xi klassi jew klassijiet", għandhom jidhlu l-kliem "biex jeżenta lil xi persuna, attività jew operazzjoni jew lil xi klassi jew klassijiet";

(g) minnufih wara s-subartikolu (5) tiegħu, kif enumerat mill-ġdid, għandu jżied dan is-subartikolu (6) ġdid li ġej:

"(6) Il-Ministru jista', wara konsultazzjoni mal-awtorità kompetenti, jagħmel regolamenti applikabbli għal impriżi tal-assigurazzjoni *captive* u għal impriżi tar-rijassigurazzjoni *captive*, li jkunu jeżentaw minn u jibdlu xi dispożizzjonijiet ta' dan l-Att jew regolamenti magħmulin tahtu.";

(h) is-subartikolu (8) tiegħu għandu jiġi mħassar;

(i) minnufih wara s-subartikolu (7) tiegħu, għandu jżied dan is-subartikolu (8) ġdid li ġej:

"(8) Il-Ministru jista', wara konsultazzjoni mal-awtorità kompetenti, jagħmel regolamenti li jistabilixxu l-klassi jew klassijiet ta' kummerċ fit-tul u l-klassi jew klassijiet jew parti minn klassijiet ta' kummerċ generali li jistgħu jintlaqtu u li jitmexxew taht dan l-Att."; u

(j) fis-subartikolu (9) tiegħu, minflok il-kliem "Regolamenti magħmula taht dan l-artikolu jistgħu jagħmlu", għandhom jidhlu l-kliem "Regolamenti magħmulin taht dan l-Att jistgħu jagħmlu".

Emenda tal-artikolu 65 tal-Att prinċipali.

72. L-artikolu 65 tal-Att prinċipali għandu jiġi mħassar.

Emenda tal-artikolu 66 tal-Att prinċipali.

73. L-artikolu 66 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem "funzjoni taht dan l-Att, jew xi regolamenti", għandhom jidhlu l-kliem "xi funzjoni taht dan l-Att, regolamenti jew Regoli dwar l-Assigurazzjoni"; u

(b) minflok il-kliem "xi funzjonijiet taht dan l-Att, jew xi regolamenti", għandhom jidhlu l-kliem "xi funzjonijiet taht dan l-Att, jew xi regolamenti jew Regoli dwar l-Assigurazzjoni".

74. L-artikolu 67 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 67 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "li sabiex tikseb il-ħruġ ta' awtorizzazzjoni taht dan l-Att jew xi regolamenti magħmula bis-saħħa tiegħu, tagħti", għandhom jidhlu l-kliem "li bil-għan li tikseb il-ħruġ ta' awtorizzazzjoni taht dan l-Att jew konformement ma' xi dispozizzjoni ta' dan l-Att jew ta' xi regolamenti jew Regoli dwar l-Assigurazzjoni magħmulin tahtu, tagħti";

(ii) fil-paragrafu (ċ) tiegħu, minflok il-kliem "jew b'xi regolamenti magħmula bis-saħħa tiegħu; jew", għandhom jidhlu l-kliem "jew b'xi regolamenti jew Regoli dwar l-Assigurazzjoni magħmulin tahtu; jew";

(iii) il-paragrafi (d) u (e) tiegħu għandhom jiġu enumerat mill-ġdid bħala l-paragrafi (e) u (f) rispettivament;

(iv) minnufih wara l-paragrafu (ċ) tiegħu, għandu jizdied dan il-paragrafu ġdid li ġej:

"(d) li xjentement tiegħu sehem fit-tmexxija tal-kummerċ tal-assigurazzjoni bi ħsieb qarrieqi jew għal għan qarrieqi; jew";

(v) fil-paragrafu (f) tiegħu, kif enumerat mill-ġdid:

(aa) minflok il-kliem "jew impjegat ta' kumpannija -", għandhom jidhlu l-kliem "jew impjegat ta' impriza -";

(bb) minflok is-subparagrafu (i) tiegħu, għandu jidhol dan is-subparagrafu li ġej:

"(i) li tonqos milli tiegħu kull pass raġonevoli biex tiżgura konformità mill-impriza ma' kull disposizzjoni ta' dan l-Att jew ta' xi regolamenti, jew ta' xi Regoli dwar

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l-Assigurazzjoni magħmula bis-saħha tiegħu, jew ta' awtorizzazzjoni jew permiss maħruġ taħtu; jew";

(b) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "tas-subartikolu (2)(e)", għandhom jidhlu l-kliem, "tas-subartikolu (2)(f)";

(ii) minflok il-kliem "dwar kumpannija", għandhom jidhlu l-kliem "dwar impriża";

(iii) minflok il-kliem "għall-kumpannija", għandhom jidhlu l-kliem "għall-impriża";

(ċ) fis-subartikolu (5) tiegħu:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem "iktar minn sentejn"; għandhom jidhlu l-kliem "iktar minn erba' snin"; u

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem "m'għandhomx jipprovdu għal multa ta' inqas minn mitejn u tletin euro (€230) jew iktar minn mija u sittax-il elf euro (€116,000).", għandhom jidhlu l-kliem "m'għandhomx jipprovdu għal multa ta' inqas minn mitejn u tletin euro (€230) jew iktar minn erba' mija sitta u sittin elf euro (€466,000).".

Emenda tat-Tieni Skeda li tinsab mal-Att prinċipali.

75. It-Tieni Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

(a) il-paragrafu (1) tagħha għandu jiġi mħassar;

(b) fil-paragrafu (2) tagħha, minflok il-kliem "2. Klassijiet ta' kummerċ fit-Tul", għandhom jidhlu l-kliem "2. Klassijiet ta' kummerċ fit-Tul";

(ċ) fi Klassi I, "Hajja u vitalizju", taħt l-intestatura "Deskrizzjoni":

(i) minflok il-kliem "Egħmil u twettiq ta' kuntratti", għandha tidhol il-kelma "Kuntratti";

(ii) minflok il-kliem "kuntratti taħt il-klassi III ta' din l-Iskeda", għandhom jidhlu l-kliem "kuntratti taħt il-klassijiet II u III ta' din l-Iskeda";

(d) fi Klassi II, "Żwieg u twelid", taht l-intestatura "Deskrizzjoni":

(i) minflok il-kliem "Egħmil u twettiq ta' kuntratti", għandha tidhol il-kelma "Kuntratti";

(ii) minflok il-kliem "għal perijodu li jista' jiġi speċifikat bir-regola dwar l-assigurazzjoni.", għandhom jidhlu l-kliem "għal perijodu ta' iżjed minn sena.";

(e) fi Klassi III, "*Linked Long term*", taht l-intestatura "Deskrizzjoni", minflok il-kliem "Egħmil u twettiq ta' kuntratti", għandha tidhol il-kelma "Kuntratti";

(f) fi Klassi IV, "Sahha permanenti", taht l-intestatura "Deskrizzjoni":

(i) minflok il-kliem "Egħmil u twettiq ta' kuntratti", għandha tidhol il-kelma "Kuntratti";

(ii) fil-paragrafu (a) tagħha, minflok il-kliem "għal żmien li jista' jkun speċifikat bir-regola dwar l-assigurazzjoni.", għandhom jidhlu l-kliem "għal perijodu ta' mhux inqas minn ħames snin,";

(g) fi klassi V "*Tontines*", taht l-intestatura "Deskrizzjoni", minflok il-kliem "Egħmil u twettiq ta' *tontines*" għandhom jidhlu l-kliem "Kuntratti tal-assigurazzjoni li jipprovdu għal operazzjonijiet fejn assoċjazzjonijiet ta' abbonati huma stabbiliti bl-għan li jikkapitalizzaw il-kontribuzzjonijiet tagħhom konguntament u sussegwentement jiddistribwixxu l-attivi hekk akkumulati fost is-soppravissuti jew fost il-benefiċjarji tal-mejtin.";

(h) fi klassi VI, "Fidi ta' kapital", taht l-intestatura "Deskrizzjoni", minflok il-kliem "Egħmil u twettiq ta' kuntratti ta' fidi ta' kapital" għandhom jidhlu l-kliem "Kuntratti tal-assigurazzjoni li jkunu jipprovdu għal operazzjonijiet ta' fidi ta' kapital ibbażat fuq kalkolu attwarjali fejn, b'ritorn għal pagamenti individwali jew perjodiċi miftiehma bil-quddiem, jittieħdu impenni ta' żmien u ammont speċifikat.";

(i) fi Klassi VII, "Amministrazzjoni ta' fond ta' pensjonijiet", taht l-intestatura "Deskrizzjoni":

(i) il-kliem "Egħmil u twettiq ta' -", għandhom jiġihassru;

C 1348

(ii) minflok il-paragrafu (a) tagħha għandu jidhol dan li ġej:

"(a) Kuntratti għall-amministrazzjoni ta' investimenti ta' fondi ta' pensjonijiet, u b'mod partikolari l-attiv li jirrappreżenta r-riservi ta' korpi li jagħmlu pagamenti meta sseħħ mewt jew sopravivenza jew fil-każ ta' nuqqas ta' tkomplija jew tnaqqis ta' attività; jew";

(iii) fil-paragrafu (b) tiegħu, minflok il-kelma, "kuntratti", għandha tidhol il-kelma "Kuntratti";

(j) fi klassi VIII, "Assigurazzjoni kollettiva", taht l-intestatura "Deskrizzjoni", minflok il-kliem "Egħmil u twettiq ta' kuntratti ta' xorta li tista' tkun speċifikata bir-regola dwar l-assigurazzjoni" għandhom jidhlu l-kliem "Kuntratti tax-xorta msemija fl-Artikolu 2(3)(b)(v) tad-Direttiva Solvibilità II."; u

(k) fi klassi IX, "Assigurazzjoni soċjali", taht l-intestatura "Deskrizzjoni", minflok il-kliem "Egħmil u twettiq ta' kuntratti ta' xorta li tista' tkun speċifikata bir-regola dwar l-assigurazzjoni" għandhom jidhlu l-kliem "Kuntratti tax-xorta msemija fl-Artikolu 2(3)(c) tad-Direttiva Solvibilità II.".

76. It-Tielet Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

Emenda tat-Tielet Skeda li tinsab mal-Att prinċipali.

(a) fit-Taqsima I tagħha:

(i) minnufih qabel it-tabella li hemm fiha, għandhom jizdiedu l-kliem "Klassifikazzjoni ta' riskji li joħorġu mill-klassijiet ta' assicurazzjoni";

(ii) fi Klassi 1, "Aċċident", fit-test Ingliż tal-paragrafu (c) tagħha, minflok il-kliem "combinations of the two;", għandhom jidhlu l-kliem "combination of the two;";

(iii) fi Klassi 18, "Assistenza", fil-paragrafu (a) tiegħu, minflok il-kliem "barra mir-residenza permanenti tagħhom;", għandhom jidhlu l-kliem "barra mir-residenza abitwali tagħhom;";

(b) fit-Taqsima II tagħha:

(i) minnufih qabel it-tabella li hemm fiha,

għandhom jizdiedu l-kliem "Dawn l-ismijiet li ġejjin għandhom jingħataw lil awtorizzazzjonijiet li simultanjament ikopru dawn il-klassijiet li ġejjin:"; u

(ii) minflok l-intestatura "Kompożizzjoni", fit-tielet kolonna tat-tabella li hemm fiha, għandhom jidhlu l-kliem "Klassijiet ta' kummerċ".

77. Minflok il-kliem "regola dwar l-assigurazzjoni", kull fejn dawn jidhru fl-Att, għandhom jidhlu l-kliem "Regoli dwar l-Assigurazzjoni".

Emenda ġenerali tal-Att prinċipali.

TAQSIMA II EMENDI FL-ATT DWAR L-INTERMEDJARJI FL-ASSIGURAZZJONI, KAP. 487

78. Din it-Taqsima temenda u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Intermedjarji fl-Assigurazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi tal-Att dwar l-Intermedjarji fl-Assigurazzjoni. Kap. 487.

79. Is-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, għandu jiġi emendat kif ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fit-tifsira "attivitajiet tal-intermedjarji marbuta fl-assigurazzjoni", minflok il-kliem "taħt ir-responsabbiltà ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "taħt ir-responsabbiltà ta' impriża awtorizzata";

(b) minnufih wara t-tifsira "*coverholder*", għandha tiżdied din it-tifsira ġdida li ġejja:

" "Direttiva Solvibilità II" tfisser id-Direttiva 2009/138/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 dwar il-bidu u l-eżerċizzju tal-kummerċ tal-assigurazzjoni u tar-rijassigurazzjoni (Solvibilità II) (*recast*), kif emendata minn żmien għal żmien, u tinkludi kull att magħmul b'delega u kull *standard* tekniku li kienu jew li jistgħu jinħargu bis-saħħa tagħha;"

(ċ) minnufih wara t-tifsira "*holding* kwalifikattiv ta' azzjonijiet", għandha tidhol din it-tifsira ġdida li ġejja:

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Kap. 403.

" "impriza awtorizzata" tfisser impriza tal-assigurazzjoni awtorizzata jew impriza tar-rijassigurazzjoni awtorizzata li tkun irċeviet awtorizzazzjoni konformement mal-artikolu 7 tal-Att dwar il-Kummerċ tal-Assigurazzjoni jew persuna li titqies li tkun awtorizzata taht dak l-Att, biex tmexxi kummerċ tal-assigurazzjoni u tinkludi kumpannija iskritta taht dan l-Att biex taġixxi bhala aġent fl-assigurazzjoni tal-impriza, kif ukoll impriza tal-assigurazzjoni Ewropea jew impriza tar-rijassigurazzjoni Ewropea li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li tistabbilixxi fergħa jew tipprovdi servizzi f' Malta fl-eżerċizzju ta' dritt Ewropew,";

(d) minflok it-tifsira "impriza tal-assigurazzjoni Ewropea", għandu jidhol dan li ġej:

" "impriza tal-assigurazzjoni Ewropea" tfisser impriza li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, li tmexxi l-kummerċ tal-assigurazzjoni diretta fil-kuntest tat-tifsira tal-Artikolu 2 tad-Direttiva Solvibilità II, li tkun irċeviet awtorizzazzjoni skont l-Artikolu 14 tad-Direttiva Solvibilità II,";

(e) minnufih wara t-tifsira "impriza tal-assigurazzjoni Ewropea", għandha tiżdied it-tifsira ġdida li ġejja:

" "impriza tal-assigurazzjoni ta' pajjiż terz" tfisser impriza, minbarra impriza tal-assigurazzjoni Ewropea, li tkun tehtieg awtorizzazzjoni bhala impriza tal-assigurazzjoni awtorizzata skont l-artikolu 7 tal-Att dwar il-Kummerċ tal-Assigurazzjoni, bhallikieku l-uffiċċju prinċipali tagħha kien jinsab f' Malta,";

(f) minnufih wara t-tifsira "impriza tal-assigurazzjoni ta' pajjiż terz", għandha tiżdied din it-tifsira ġdida li ġejja:

" "impriza tar-rijassigurazzjoni Ewropea" tfisser impriza li għandha l-uffiċċju prinċipali tagħha fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, li tmexxi kummerċ ristrett għar-rijassigurazzjoni fil-kuntest tat-tifsira tal-Artikolu 2 tad-Direttiva Solvibilità II, li tkun

irċeviet awtorizzazzjoni skont l-Artikolu 14 tad-Direttiva Solvibilità II;"

(g) minnufih wara t-tifsira "impriza tar-rijassigurazzjoni Ewropea", għandha tiżdied din it-tifsira ġdida li ġejja:

Kap. 403. " "impriza tar-rijassigurazzjoni ta' pajjiż terz" tfisser impriza, minbarra impriza tar-rijassigurazzjoni Ewropea, li tkun teħtieġ awtorizzazzjoni bħala impriza tar-rijassigurazzjoni awtorizzata skont l-artikolu 7 tal-Att dwar il-Kummerċ tal-Assigurazzjoni, bħallikieku l-uffiċċju prinċipali tagħha kien jinsab f'Malta;"

(h) minflok it-tifsira "kontroll", għandha tidhol din it-tifsira ġdida li ġejja:

" "kontroll" tfisser ir-relazzjoni bejn impriza *parent* u impriza sussidjarja, kif stabbilit fl-Artikolu 22 tad-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji kkonsolidati u r-rapporti relatati ta' ċertu tipi ta' imprizi, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE, jew relazzjoni simili bejn xi persuna fiżika jew ġuridika u impriza;"

(i) fit-tifsira "kontrollur", minflok il-kliem "teżerċita kontroll relattivament għall-korp ġuridiku", għandhom jidhlu l-kliem "teżerċita s-setgħa li tistabilixxi l-politika finanzjarja u operattiva tal-korp ġuridiku;"

(j) fit-tifsira "korp ġuridiku", minflok il-kliem "distinta minn dik tal-membri tagħha", għandhom jidhlu l-kliem "distinta minn dik tal-membri tagħha u tinkludi wkoll korporazzjoni barranija;"

(k) it-tifsira "kumpannija awtorizzata" għandha tiġi mħassra;

(l) minnufih wara t-tifsira "ordnat", għandha tiżdied din it-tifsira ġdida li ġejja:

" "parteciċipazzjoni" tfisser il-proprjetà, diretta jew permezz ta' kontroll, ta' 20% jew aktar tal-jeddijiet ta' votazzjoni jew tal-kapital ta' impriza;"

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(m) minnufih wara t-tifsira "rabtiet internazzjonali", ghandha tizdied din it-tifsira ġdida li ġejja:

" "rabtiet mill-qrib" tfisser sitwazzjoni fejn żewġ persuni jew aktar, fiżiċi jew ġuridiċi, ikunu marbutin b'kontroll jew parteċipazzjoni, jew sitwazzjoni li fiha żewġ persuni jew aktar, fiżiċi jew ġuridiċi, ikunu marbutin b'mod permanenti ma' waħda u l-istess persuna b'relazżjoni ta' kontroll;"

(n) minflok it-tifsira "Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni", ghandu jidhol dan li ġej:

" "Reġistru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni" dwar impriza awtorizzata tfisser ir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni stabbilit u miżmum minn impriza awtorizzata taħt l-artikolu 34(1);".

(o) minflok it-tifsira "regola dwar l-intermedjarji fl-assigurazzjoni", ghandu jidhol dan li ġej:

" "regola dwar l-intermedjarji fl-assigurazzjoni" tfisser regola dwar l-attivitajiet ta' intermedjarji fl-assigurazzjoni maħruġa mill-awtorità kompetenti taħt diversi artikoli ta' dan l-Att u taħt regolamenti magħmulin tahtu;"

(p) minflok it-tifsira "reklam", ghandha tidhol din it-tifsira ġdida li ġejja:

" "reklam", dwar attivitajiet ta' intermedjarji fl-assigurazzjoni, tfisser kull xorta jew mezz ta' reklamar, u bla ħsara għall-ġeneralità ta' dak qabel imsemmi, tinkludi reklamar f'pubblikazzjoni, il-wiri ta' avvizi, tabelli, tikketti jew kartelluni, bil-mezz ta' ittri, ċirkolarijiet, katalgi, listi tal-prezzijiet jew dokumenti oħra, bil-wiri ta' stampi jew filmati fotografici jew ċinematografici, bil-mezz ta' xandir bis-smiġh jew bit-televizjoni, bit-tqassim ta' reġistrazzjonijiet jew b'kull mod ieħor, u riferenzi għall-ħruġ ta' reklam għandhom jinftiehem f'dan is-sens;"

(q) minnufih wara t-tifsira "Stat ŻEE", ghandha tizdied din it-tifsira ġdida li ġejja:

- Kap. 345
- " "suq regolat" tfisser xi wahda minn dawn li ġejjin:
- (a) fil-każ ta' suq li jinsab f'Malta, suq awtorizzat skont l-Att dwar is-Swieq Finanzjarji;
- (b) fil-każ ta' suq li jinsab fi Stat Membru jew fi Stat ŻEE, li ma jkunx Malta, suq regolat kif imfisser fl-artikolu 4(1)(14) tad-Direttiva 2004/39/KE tal-Parlament Ewropew u tal-Kunsill tal-21 ta' April 2004 dwar is-swieq fl-istrumenti finanzjarji li temenda d-Direttivi tal-Kunsill 85/611/KEE u 96/6/KEE u d-Direttiva 2000/12/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttiva tal-Kunsill 93/22/KEE, kif emendata minn żmien għal żmien; jew
- (ċ) fil-każ ta' suq li jinsab fi Stat mhux Membru jew Stat mhux ŻEE, suq finanzjarju li jissodisfa dawn il-kundizzjonijiet li ġejjin:
- (i) ikun rikonoxxut mill-awtorità kompetenti u jissodisfa r-rekwiżiti paragonabbli ma' dawk stipulati fid-Direttiva 2004/39/KE; u
- (ii) l-istrumenti finanzjarji trattati f'dak is-suq huma ta' kwalità paragonabbli ma' dik tal-istrumenti trattati fis-suq regolat jew swieq regolati f'Malta;"

80. L-artikolu 4 tal-Att prinċipali għandu jigi emendat kif ġej:

Emenda tal-artikolu 4 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "tirrevoka dawk ir-regoli dwar intermedjarji fl-assigurazzjoni.", għandhom jiżdiedu l-kliem "tirrevoka dawk ir-regoli dwar l-intermedjarji fl-assigurazzjoni u kull emenda jew revoka tagħhom għandha tigi uffiċjalment kkomunikata lill-persuni konċernati.";

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

"(3) Regoli dwar l-intermedjarji fl-assigurazzjoni għandhom ikunu vinkolanti fuq l-intermedjarji fl-assigurazzjoni u fuq oħrajn hekk kif dawn jistgħu jkunu

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jispeċifikaw."; u

(ċ) fil-paragrafu (d) tas-subartikolu (4) tiegħu, minflok il-kliem "bejn l-intermedjarji fl-assigurazzjoni u l-kumpanniji fl-assigurazzjoni", għandhom jidhlu l-kliem "bejn l-intermedjarji fl-assigurazzjoni u l-imprizi tal-assigurazzjoni awtorizzati".

Emenda tal-artikolu 10 tal-Att prinċipali.

għej:

81. L-artikolu 10 tal-Att prinċipali għandu jiġi emendat kif

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

(b) is-subartikolu (4) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3).

Emenda tal-artikolu 31 tal-Att prinċipali.

għej:

82. L-artikolu 31 tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "għandu jsir ma' kumpannija awtorizzata.", għandhom jidhlu l-kliem "għandu jsir ma' impriza awtorizzata.";

(b) is-subartikolu (2) tiegħu għandu jithassar;

(ċ) is-subartikolu (3) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2);

(d) fis-subartikolu (2) tiegħu, kif enumerat mill-ġdid:

(i) minflok il-kliem "Hlief kif provdut fis-subartikolu (2), id-dispożizzjonijiet ta' dan l-artikolu ma japplikawx għal -", għandhom jidhlu l-kliem "Id-dispożizzjonijiet ta' dan l-artikolu ma japplikawx għal -"; u

(ii) minflok il-paragrafu (b) tiegħu, għandu jidhol dan li għej:

"(b) riskji kbar kif imfisser fl-Artikolu 13 tad-Direttiva Solvibilità II.".

Emenda tal-artikolu 32 tal-Att prinċipali.

għej:

83. L-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ma' kull kumpannija awtorizzata.", għandhom jidhlu l-kliem "ma' kull impriza awtorizzata.";

(b) fis-subartikolu (7) tiegħu:

(i) minflok il-kliem "ftehim bejn kumpannija awtorizzata u persuna iskritta taht l-artikolu 13", għandhom jidhlu l-kliem "ftehim bejn impriża awtorizzata u persuna iskritta fil-Lista tal-*Brokers* taht l-artikolu 13"; u

(ii) minflok il-kliem "f'isem il-kumpannija awtorizzata;", għandhom jidhlu l-kliem "f'isem l-impriża awtorizzata;".

84. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 34 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "kull kumpannija awtorizzata li tkun tixtieq tahtar", għandhom jidhlu l-kliem "kull impriża awtorizzata li tkun tixtieq tahtar"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "kull kumpannija awtorizzata għandha tistabbilixxi", għandhom jidhlu l-kliem "kull impriża awtorizzata għandha tistabbilixxi".

85. Fis-subartikolu (1) tal-artikolu 35 tal-Att prinċipali, minflok il-kliem "reġistrata minn kumpannija awtorizzata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni jekk il-kumpannija tkun sodisfatta", għandhom jidhlu l-kliem "reġistrata minn impriża awtorizzata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' dik l-impriża jekk din tkun sodisfatta". Emenda tal-artikolu 35 tal-Att prinċipali.

86. L-artikolu 36 tal-Att prinċipali, għandu jiġi emendat kif ġej: Emenda tal-artikolu 36 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "id-dmir ta' kumpannija awtorizzata", għandhom jidhlu l-kliem "id-dmir ta' impriża awtorizzata"; u

(ii) minflok il-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni taht l-artikolu 37.", għandhom jidhlu l-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni stabbilit u miżmum minnha taht l-artikolu 37.";

(b) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "kumpannija awtorizzata

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għandha tagħti", għandhom jidhlu l-kliem "impriza awtorizzata għandha tagħti"; u

(ii) minflok il-kliem "mogħti lill-kumpannija mill-awtorità kompetenti", għandhom jidhlu l-kliem "maħruġ lill-impriza awtorizzata mill-awtorità kompetenti".

Emenda tal-
artikolu 37 tal-
Att prinċipali.

87. L-artikolu 37 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) minflok il-kliem "kull kumpannija awtorizzata li tkun tixtieq taħtar persuna", għandhom jidhlu l-kliem "kull impriza awtorizzata li tkun tixtieq taħtar persuna";

(ii) minflok il-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija", għandhom jidhlu l-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriza awtorizzata";

(iii) fl-ewwel proviso mas-subartikolu (1) tiegħu:

(aa) minflok il-kliem "kumpannija hija projbita milli taħtar u tirreġistra fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija", għandhom jidhlu l-kliem "impriza hija projbita milli taħtar u tirreġistra fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha"; u

(bb) fil-paragrafu (c) tiegħu, minflok il-kliem "kumpannija awtorizzata taħt l-Att dwar il-Kummerċ tal-Assigurazzjoni", għandhom jidhlu l-kliem "impriza awtorizzata taħt l-Att dwar il-Kummerċ tal-Assigurazzjoni";

(iv) fit-tieni proviso mas-subartikolu (1) tiegħu, minflok il-kliem "kumpannija hi projbita milli", għandhom jidhlu l-kliem "impriza hi projbita milli";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "Meta kumpannija awtorizzata taħtar u tirreġistra fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija", għandhom jidhlu l-kliem "Meta impriza

awtorizzata taħtar u tirreġistra fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' xi kumpannija awtorizzata", għandhom jidhlu l-kliem "Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' impriża awtorizzata"; u

(ii) minflok il-kliem "f'isem dik il-kumpannija", għandhom jidhlu l-kliem "f'isem dik l-impriża.";

(d) fis-subartikolu (4) tiegħu:

(i) minflok il-kliem "iktar minn kumpannija waħda awtorizzata li tmexxi kummerċ fit-tul", għandhom jidhlu l-kliem "iktar minn impriża waħda, awtorizzata li tmexxi kummerċ fit-tul,";

(ii) minflok il-kliem "li jitmexxa mill-kumpanniji konċernati", għandhom jidhlu l-kliem "li jitmexxa mill-impriži konċernati"; u

(iii) minflok il-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' waħda mill-kumpanniji konċernati.", għandhom jidhlu l-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' waħda mill-impriži konċernati.";

(e) fis-subartikolu (5) tiegħu:

(i) minflok il-kliem "iktar minn kumpannija waħda awtorizzata li", għandhom jidhlu l-kliem "iktar minn impriża waħda awtorizzata li";

(ii) minflok il-kliem "li jitmexxa mill-kumpanniji konċernati", għandhom jidhlu l-kliem "li jitmexxa mill-impriži konċernati"; u

(iii) minflok il-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' waħda mill-kumpanniji konċernati.", għandhom jidhlu l-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' waħda mill-impriži konċernati.";

(f) minflok is-subartikolu (6) tiegħu, għandu jidhol dan

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li ġej:

"(6) Ebda persuna li tkun impjegata ma' impriza awtorizzata m'għandha, minhabba biss il-fatt li tkun impjegata mal-impriza, teħtieg registrazzjoni fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriza taħt dan l-artikolu.";

(g) fis-subartikolu (9) tiegħu:

(i) minflok il-kliem "Kumpannija awtorizzata tkun", għandhom jidhlu l-kliem "Impriza awtorizzata tkun"; u

(ii) minflok il-kliem "maħruġ mill-kumpannija", għandhom jidhlu l-kliem "maħruġ mill-impriza".

Emenda tal-artikolu 38 tal-Att prinċipali.

88. Is-subartikolu (3) tal-artikolu 38 tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "thallsu lill-kumpannija", għandhom jidhlu l-kliem "thallsu lill-impriza awtorizzata"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "thallsu minn kumpannija awtorizzata", għandhom jidhlu l-kliem "thallsu minn impriza awtorizzata".

Emenda tal-artikolu 39 tal-Att prinċipali.

89. L-artikolu 39 tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "kumpannija awtorizzata tista' thassar mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija", għandhom jidhlu l-kliem "impriza awtorizzata tista' thassar mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha"; U

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' kumpannija awtorizzata tista' tapplika bil-miktub lill-kumpannija konċernata u titlob lill-kumpannija", għandhom jidhlu l-kliem "fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni ta' impriza awtorizzata tista' tapplika bil-miktub lill-impriza konċernata u titlob lill-impriza".

90. L-artikolu 40 tal-Att prinċipali, għandu jiġi emendat kif ġej:

Emenda tal-artikolu 40 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "Meta kumpannija awtorizzata tagħzel li tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, il-kumpannija għandha minnufih tavża", għandhom jidhlu l-kliem "Meta impriża awtorizzata tagħzel li tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha, dik l-impriża għandha minnufih tavża";

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "Meta kumpannija awtorizzata tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija", għandhom jidhlu l-kliem "Meta impriża awtorizzata tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha";

(ii) minflok il-kliem "il-kumpannija għandha tavża bil-miktub", għandhom jidhlu l-kliem "l-impriża għandha wkoll tavża bil-miktub";

(ċ) fis-subartikolu (3) tiegħu:

(i) minflok il-kliem "avviż mingħand kumpannija awtorizzata li dik il-kumpannija tkun għazlet li tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija,", għandhom jidhlu l-kliem "avviż mingħand impriża awtorizzata li dik l-impriża tkun għazlet li tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha,";

(ii) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

"(a) jekk it-tħassir ta' dak l-isem mir-registru jkun minhabba raġunijiet li ma jkunux dawk speċifikati fis-subartikolu (2), kemm jista' jkun malajr, tikkonferma bil-miktub lill-impriża awtorizzata li isem dik il-persuna, safejn għandu x'jaqsam ma' dik l-impriża, għandu jithassar mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni mid-data speċifikata fl-avviż tal-impriża;"

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(d) minflok il-paragrafu (a) tas-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

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

(e) fis-subartikolu (6) tiegħu, minflok il-kliem "Meta kumpannija awtorizzata tirċievi applikazzjoni bil-miktub mingħand persuna reġistrata fir-Registru ta' Kumpannija għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija li tkun qiegħda teħtieġ lill-kumpannija li thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija, il-kumpannija għandha mingħajr ebda dewmien thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-kumpannija filwaqt li tavża", għandhom jidhlu l-kliem "Meta impriza awtorizzata tirċievi applikazzjoni bil-miktub mingħand persuna reġistrata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriza li tkun qiegħda teħtieġ lil dik l-impriza li thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriza, l-impriza għandha mingħajr ebda dewmien thassar isem dik il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriza filwaqt li tavża";

(f) minflok il-is-subartikolu (7) tiegħu, għandu jidhol dan li ġej:

"(7) Meta, wara li ssir applikazzjoni lil impriza awtorizzata taħt is-subartikolu (6), l-impriza tirrifjuta, jew indebitament iġġebbed il-proċess, li thassar isem il-persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tagħha, il-persuna konċernata tista' tirreferi l-kwistjoni lill-awtorità kompetenti u l-awtorità kompetenti għandha toħroġ bil-miktub lill-impriza konċernata dawk id-direttivi li tqis li jkunu meħtieġa biex iġġieghel lill-impriza thaffef il-proċess ta' thassir tal-isem ta' dik il-persuna mir-Registru tagħha."; u

(g) minflok is-subartikolu (8) tiegħu, għandu jidhol dan

li ġej:

"(8) Malli jinghata avviż mill-awtorità kompetenti lil impriża awtorizzata li isem persuna reġistrata fir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni tal-impriża jkun tħassar mil-Lista ta' Intermedjarji Marbuta fl-Assigurazzjoni, l-impriża konċernata għandha minnufih tagħti lura lill-awtorità kompetenti ċ-ċertifikat ta' iskrizzjoni dwar dik il-persuna, u kull kopja uffċjali li jkollha ta' dak iċ-ċertifikat."

91. Fil-proviso mas-subartikolu (1) tal-artikolu 41 tal-Att prinċipali, minflok il-kliem "għandha tavża lill-kumpannija konċernata", għandhom jidhlu l-kliem "għandha tavża lill-impriża konċernata".

Emenda tal-artikolu 41 tal-Att prinċipali.

92. Fis-subartikolu (1) tal-artikolu 43 tal-Att prinċipali, minflok il-kliem " "kumpannija awtorizzata" ", għandhom jidhlu l-kliem " "impriża awtorizzata" ".

Emenda tal-artikolu 43 tal-Att prinċipali.

93. Fis-subartikolu (2) tal-artikolu 44A tal-Att prinċipali, il-kliem "fil-kuntest tat-tifsira tal-Att dwar is-Swieq Finanzjarji jew f'suq ekwivalenti fi stat li mhux Stat Membru jew Stat ŻEE" għandhom jithassru.

Emenda tal-artikolu 44A tal-Att prinċipali.

94. Fis-subartikolu (3) tal-artikolu 45 tal-Att prinċipali, minflok il-kliem "laqgħat bejn kumpannija awtorizzata, l-intermedjarju fl-assigurazzjoni, l-uditur approvat tagħha u l-awtorità kompetenti," għandhom jidhlu l-kliem "laqgħat bejn impriża awtorizzata, l-intermedjarju fl-assigurazzjoni, l-uditur approvat tagħha u l-awtorità kompetenti,".

Emenda tal-artikolu 45 tal-Att prinċipali.

95. Is-subartikolu (3) tal-artikolu 47 tal-Att prinċipali għandu jithassar.

Emenda tal-artikolu 47 tal-Att prinċipali.

96. L-artikolu 48 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 48 tal-Att prinċipali.

(a) minflok il-paragrafu (d) tas-subartikolu (1) tiegħu, għandu jidhlo dan li ġej:

Kap. 403. "(d) impriża tal-assigurazzjoni u tar-rijassigurazzjoni awtorizzata taht l-Att dwar il-Kummerċ tal-Assigurazzjoni;"

(b) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "Kull kumpannija barranija iskritta jew awtorizzata", għandhom jidhlu l-kliem "Kull

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kumpannija barranija jew kull impriza tal-assigurazzjoni ta' pajjiż terz jew impriza tar-rijassigurazzjoni ta' pajjiż terz, iskritta jew awtorizzata"; u

(ii) minflok il-kliem "dik il-kumpannija għandha żżid", għandhom jidhlu l-kliem "dik il-kumpannija barranija, jew impriza tal-assigurazzjoni ta' pajjiż terz jew impriza tar-rijassigurazzjoni ta' pajjiż terz, għandha żżid".

Emenda tal-
artikolu 49 tal-
Att prinċipali.

97. L-artikolu 49 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem "taht dan l-Att jew xi regolamenti magħmula bis-saħħa tiegħu", għandhom jidhlu l-kliem "taht dan l-Att u xi regolamenti jew xi regola dwar l-intermedjarji fl-assigurazzjoni magħmulin bis-saħħa tiegħu"; u

(b) fil-paragrafu (e) tiegħu, minflok il-kliem "lil direttur, uffiċjal, skrivan", għandhom jidhlu l-kliem "lil direttur, uffiċjal, segretarju, skrivan".

Emenda tal-
artikolu 50 tal-
Att prinċipali.

98. L-artikolu 50 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu:

(i) minflok il-kliem "kull persuna, jew kumpannija li tħossha aggravata b'deċiżjoni tal-awtorità kompetenti -", għandhom jidhlu l-kliem "jista' jsir appell lit-Tribunal għas-Servizzi Finanzjarji dwar -";

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem "li tirrifjuta li tirreġistra jew tiskrivi", għandhom jidhlu l-kliem "kull rifjut li tirreġistra jew tiskrivi";

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem "li timponi xi kondizzjoni", għandhom jidhlu l-kliem "kull kundizzjoni imposta";

(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem "li tħassar l-isem ta' persuna", għandhom jidhlu l-kliem "kull sospensjoni jew tħassir tal-isem ta' persuna";

(v) fil-paragrafu (d) tiegħu, minflok il-kliem "li tirrifjuta li tirrestitwixxi l-isem", għandhom jidhlu l-kliem "kull rifjut li jerga' jitniżżel l-isem";

(vi) il-paragrafi (e), (f), (g), (h) u (i) tiegħu

għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (f), (g), (h), (i) u (k), rispettivament;

(vii) minnufih wara l-paragrafu (d) tiegħu, għandu jizdied dan il-paragrafu (e) ġdid li ġej:

"(e) xi waħda jew aktar mill-mizuri meħuda taht l-artikolu 19;"

(viii) fil-paragrafu (f) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li tirrifjuta li tirreġistra", għandhom jidhlu l-kliem "kull rifjut li tirreġistra";

(ix) fil-paragrafu (g) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li tħassar l-isem ta' persuna", għandhom jidhlu l-kliem "kull tħassir tal-isem ta' persuna";

(x) minflok il-paragrafu (h) tiegħu, kif enumerat mill-ġdid, għandu jidhol dan li ġej:

"(h) kull htieġa li impriża awtorizzata tħassar l-isem ta' persuna mir-Registru ta' Kumpanniji għal Intermedjarji Marbuta fl-Assigurazzjoni taht l-artikolu 41;"

(xi) fil-paragrafu (i) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li toħroġ xi avviz jew tagħmel xi ordni", għandhom jidhlu l-kliem "kull avviz maħruġ jew kull ordni magħmula";

(xii) minnufih wara paragrafu (i) tiegħu, kif enumerat mill-ġdid, għandu jizdied dan il-paragrafu (j) ġdid li ġej:

"(j) kull direttiva mogħtija taht l-artikolu 31A tal-Att dwar il-Kummerè tal-Assigurazzjoni, li ssir tapplika kif hemm fl-artikolu 54 ta' dan l-Att;"
u

(xiii) fil-paragrafu (k) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "li timponi penali amministrattiva", għandhom jidhlu l-kliem "kull penali amministrattiva imposta"; u

(b) is-subartikoli (3) u (4) tiegħu għandhom jithassru.

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Emenda tal-
artikolu 52 tal-
Att prinċipali.

99. Is-subartikolu (1) tal-artikolu 52 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "l-iskrizzjoni taht dan l-Att jew skont xi regolamenti magħmula bis-saħħa tiegħu", għandhom jidhlu l-kliem "l-iskrizzjoni taht dan l-Att jew skont xi regolamenti jew xi regola dwar l-intermedjarji fl-assigurazzjoni magħmulin bis-saħħa tiegħu,";

(b) il-paragrafi (d), (e), (f), (g), u (h) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (e), (f), (g), (h) u (i), rispettivament;

(ċ) minnufih wara l-paragrafu (ċ) tiegħu, għandu jizdied dan il-paragrafu (d) ġdid li ġej:

"(d) li xjentement tiegħu sehem fit-tmexxija ta' attivitajiet ta' intermedjarji fl-assigurazzjoni bi ħsieb qarrieqi jew għal għan qarrieqi; jew"; u

(d) fil-paragrafu (i) tiegħu, kif enumerat mill-ġdid, minflok il-kliem "jew xi regolamenti magħmula bis-saħħa tiegħu," għandhom jidhlu l-kliem "jew xi regolamenti jew xi regola dwar l-intermedjarji fl-assigurazzjoni magħmulin bis-saħħa tiegħu,".

Emenda tal-
artikolu 53 tal-
Att prinċipali.

100. Is-subartikolu (1) tal-artikolu 53 tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu, minflok il-kliem "prigunerija li tkun iktar minn sentejn," għandhom jidhlu l-kliem "prigunerija li tkun iktar minn minn erba' snin,"; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem "jew iktar minn mija u sittax-il elf euro (€116,000)," għandhom jidhlu l-kliem "jew iktar minn erba' mija u sitta u sittin elf euro (€466,000);".

Emenda tal-
artikolu 54 tal-
Att prinċipali.

101. L-artikolu 54 tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu:

(i) fis-subparagrafu (ii) tal-paragrafu (a) tiegħu, minflok il-kliem "għal "kumpannija awtorizzata" ", għandhom jidhlu l-kliem "għal "impriza tal-assigurazzjoni jew tar-rijassigurazzjoni awtorizzata" "; u

(ii) fis-subparagrafu (ii) ta' paragrafu (b) tiegħu, minflok il-kliem "għal "kumpannija awtorizzata" ", għandhom jidhlu l-kliem "għal "impriza tal-assigurazzjoni awtorizzata" ";

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "u riferenzi għal "regola dwar l-assigurazzjoni" ", għandhom jidhlu l-kliem "u riferenzi għal "Regoli dwar l-Assigurazzjoni" ".

102. It-Tielet Kolonna tal-Iskeda li tinsab mal-Att prinċipali, għandha tigi emendata kif ġej:

Emenda tal-Iskeda li tinsab mal-Att prinċipali.

(a) fil-paragrafu (2) tagħha:

(i) minflok il-kliem "maħtura minn kumpannija awtorizzata taht l-Att dwar il-Kummerè tal-Assigurazzjoni", għandhom jidhlu l-kliem "maħtura minn impriza awtorizzata taht l-Att dwar il-Kummerè tal-Assigurazzjoni"; u

(ii) minflok il-kliem "f'isem il-kumpannija", għandhom jidhlu l-kliem "f'isem l-impriza";

(b) fil-paragrafu (4) tagħha:

(i) minflok il-kliem "f'isem kumpanniji awtorizzati", għandhom jidhlu l-kliem "f'isem imprizi awtorizzati"; u

(ii) minflok il-kliem "taht r-responsabbilità sħiħa ta' dawk il-kumpanniji awtorizzati", għandhom jidhlu l-kliem "taht ir-responsabbilità sħiħa ta' dawk l-imprizi awtorizzati".

TAQSIMA III

EMENDI FL-ATT DWAR IL-KUMPANNIJI, KAP. 386

103. Din it-Taqsima temenda u għandha tinqara u tintfiehmed haġa waħda mal-Att dwar il-Kumpanniji, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emendi tal-Att dwar il-Kumpanniji. Kap. 386.

104. Fil-paragrafu (a) tas-subartikolu (2) tal-artikolu 84A tal-Att prinċipali, minflok il-kliem "u għandha tinkludi l-kummerè ta' assigurazzjoni affiljata skont kif ordnat b'regolamenti mahruġa taht l-Att," għandhom jidhlu l-kliem "u għandha tinkludi l-kummerè li jitmexxa minn impriza tal-assigurazzjoni *captive* u minn impriza tar-rijassigurazzjoni *captive* kif hemm f'dak l-Att,".

Emenda tal-artikolu 84A tal-Att prinċipali.

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Emenda tal-
artikolu 168 tal-
Att prinċipali.

105. L-artikolu 168 tal-Att prinċipali, għandu jiġi emendat kif ġej:

(a) minflok in-nota marginali li hemm miegħu għandu jidhol dan li ġej:

"Kontijiet annwali ta' banek, imprizi tal-assigurazzjoni u tar-rijassigurazzjoni u istituzzjonijiet finanzjarji.";

(b) fis-subartikolu (1) tiegħu, minflok il-kliem "u kumpanniji tal-assigurazzjoni li huma regolati bl-Att dwar il-Kummerċ tal-Assigurazzjoni", għandhom jidhlu l-kliem "u imprizi tal-assigurazzjoni u tar-rijassigurazzjoni li huma regolati bl-Att dwar il-Kummerċ tal-Assigurazzjoni"; u

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

"(3) L-imprizi tal-assigurazzjoni u tar-rijassigurazzjoni għandhom iħarsu ir-Regoli dwar l-Assigurazzjoni magħmulin taht l-Att dwar il-Kummerċ tal-Assigurazzjoni dwar l-kontijiet annwali tagħhom.".

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa biex jittrasponi d-dispożizzjonijiet tad-Direttiva 2009/138/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 dwar il-bidu u l-eżerċizzju tal-kummerċ tal-assigurazzjoni u tar-rijassigurazzjoni (*recast*) (id-"Direttiva Solvibbiltà II") u tad-Direttiva 2014/51/UE tal-Parlament Ewropew u tal-Kunsill tas-16 ta' April 2014 li tmenda d-Direttivi 2003/71/KE u 2009/138/KE u r-Regolamenti (KE) Nru.1060/2009, (UE) Nru.1094/2010 u (UE) Nru. 1095/2010 dwar is-setgħat tal-Awtorità Superviżorja Ewropea (Awtorità Ewropea tal-Assigurazzjoni u l-Pensjonijiet tax-Xogħol) u l-Awtorità Superviżorja Ewropea (Awtorità Ewropea tat-Titoli u s-Swieq), (id-"Direttiva Omnibus II"), billi tmenda l-Att dwar il-Kummerċ tal-Assigurazzjoni (Kap. 403), u kif ukoll biex tipprovdi dwar affarijiet inċidentali u anċillari għalihom. L-emendi proposti fl-Att dwar l-Intermedjarji fl-Assigurazzjoni (Kap. 487) u fl-Att dwar il-Kumpanniji (Kap. 386) huma konsegwenzjali għall-emendi proposti għall-Att dwar il-Kummerċ tal-Assigurazzjoni, u jitqiesu meħtieġa biex jiżguraw konsistenza fil-liġijiet.

**A BILL
entitled**

AN ACT to amend various financial services laws, to transpose Directive 2009/138/EC ("the Solvency II Directive"), and to provide for matters ancillary or incidental thereto.

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:-

1. (1) The short title of this Act is the Various Financial Services Laws (Amendment No. 2) Act, 2015. Short title.

(2) The provisions of this Act shall come into force on such date as the Minister responsible for Finance may, by notice in the Gazette, establish, and different dates may be so established for different provisions of this Act.

PART I

AMENDMENT OF THE INSURANCE BUSINESS ACT, CAP. 403

2. This Part amends and shall be read and construed as one with the Insurance Business Act, hereinafter in this Part referred to as "the principal Act". Amendment of the Insurance Business Act, Cap. 403.

3. The "ARRANGEMENT OF ACT" of the principal Act shall be amended as follows: Renaming and renumbering of Parts of the principal Act.

(a) in "Part IV. Conditions for carrying on Business of Insurance", under the heading "Articles", for the figures "14-18", there shall be substituted the figures "14-18I";

(b) immediately after "Part IV. Conditions for carrying on Business of Insurance", there shall be added the following new titles:

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*"Title I: Financial Requirements**Title II: Systems of Governance";*

(c) in the new Titles I and II, under the heading "Articles", there shall be inserted the figures "14-18G", and "18H-18I" respectively;

(d) in "Part VII. Supervision of Authorised Companies", for the words, "of Authorised Companies", there shall be substituted the words, "of Authorised Insurance and Reinsurance Undertakings";

(e) immediately after "Part VII. Supervision of Authorised Insurance and Reinsurance Undertakings", there shall be added the following new Part:

"Part VIIA. Group Supervision";

(f) in the new "Part VIIA. Group Supervision", under the heading "Articles", there shall be inserted the figures "32A-32E"; and

(g) in "Part X. Conduct of Business of Insurance", under the heading "Articles", for the figures "43-48", there shall be substituted the figures "43-48C".

Amendment of
article 2 of the
principal Act.

4. Article 2 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof:

(i) the definition "advertisement" shall be amended as follows:

(aa) for the words "means any form of advertising, whether done verbally or in writing", there shall be substituted the words "means any form or medium of advertising";

(bb) for the words "by means of letters, circulars, prospectuses, catalogues", there shall be substituted the words "by means of letters, circulars, catalogues"; and

(cc) for the words "by the distribution of recordings or in any other manner, and references", there shall be substituted the words "by the distribution of recordings or in any other manner,

the contents of which invite persons, or contain material calculated to induce persons to enter into contracts of insurance, and references";

(ii) immediately after the definition "authorisation" there shall be added the following new definition:

" "authorised insurance undertaking" means an undertaking, which has received authorisation pursuant to article 7 to carry on direct general business and, or long term business, and includes an undertaking authorised to carry on direct and reinsurance business;"

(iii) immediately after the new definition "authorised insurance undertaking" there shall be added the following new definition:

"authorised reinsurance undertaking" means an undertaking which has received authorisation pursuant to article 7 to carry on business restricted to reinsurance;"

(iv) in the definition "body corporate", for the words "distinct from that of its members;", there shall be substituted the words "distinct from that of its members and also includes a foreign corporation;"

(v) in the definition "branch", for the words "means premises of the company, other than its head office", there shall be substituted the words "means premises of an authorised insurance and reinsurance undertaking, other than its head office";

(vi) for sub-paragraph (ii) of paragraph (a) of the definition "business of insurance", there shall be substituted the following new sub-paragraph:

"(ii) capital redemption contracts based on actuarial calculation whereby, in return for single or periodic payments agreed in advance, commitments of specified duration and amount are undertaken;"

(vii) immediately after the definition "business of insurance" there shall be added the following new

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definition:

" "captive insurance undertaking" means an authorised insurance undertaking, owned either by a financial undertaking, other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings within the meaning of article 2, or by a non-financial undertaking, the purpose of which is to provide insurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;"

(viii) immediately after the new definition "captive insurance undertaking" there shall be added the following new definition:

" "captive reinsurance undertaking" means an authorised reinsurance undertaking, owned either by a financial undertaking, other than an insurance or reinsurance undertaking or a group of insurance or reinsurance undertakings within the meaning of article 2, or by a non-financial undertaking, the purpose of which is to provide reinsurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which it is a member;"

(ix) immediately after the definition "cell company" there shall be added the following new definition:

" "close links" means a situation in which two or more natural or legal persons are linked by control or participation, or a situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship;"

(x) the definition "company" shall be deleted;

(xi) the definition "company whose head office is in Malta" shall be deleted;

(xii) the definition "company whose head office is

in a country outside Malta" shall be deleted;

(xiii) for the definition "control", there shall be substituted the following new definition:

" "control", means the relationship between a parent undertaking and a subsidiary undertaking, as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking;"

(xiv) in the definition "controller", for the words "exercises control of the body corporate;", there shall be substituted the words "exercises the power to determine the financial and operating policies of the body corporate;"

(xv) for the definition "director", there shall be substituted the following new definition:

" "director", in relation to an undertaking, includes an individual occupying the position of a director of the undertaking, by whatever name he may be called, empowered to carry out substantially the same functions in relation to the direction of the undertaking as those carried out by a director and, in respect of a third country insurance undertaking or a third country reinsurance undertaking, includes a member of a local board, and the person designated as the representative of that undertaking for the purpose of article 11(1)(b)(i);"

(xvi) immediately after the definition "director", there shall be added the following new definition:

" "document" or "documentation" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include

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references to producing a copy of the information in legible form;"

(xvii) immediately after the definition "EEA State", there shall be added the following new definition:

" "EIOPA" means the European Insurance and Occupational Pensions Authority established in terms of article 1 of Regulation (EU) No. 1094/2010;"

(xviii) for the definition "establishment", there shall be substituted the following new definition:

" "establishment" means the head office, or any branches of an authorised insurance undertaking or an authorised reinsurance undertaking;"

(xix) for the definition "European insurance undertaking", there shall be substituted the following new definition:

" "European insurance undertaking" means an undertaking having its head office in a Member State or an EEA State, other than Malta, pursuing the activity of direct insurance within the meaning of Article 2 of the Solvency II Directive, which has received authorisation in accordance with Article 14 of the Solvency II Directive;"

(xx) immediately after the new definition "European insurance undertaking", there shall be added the following new definition:

" "European regulatory authority" means the supervisory authority or supervisory authorities as defined in Article 13 of the Solvency II Directive, designated by a Member State or EEA State, other than Malta, empowered by law or regulation to supervise insurance or reinsurance undertakings;"

(xxi) immediately after the new definition "European regulatory authority", there shall be added the following new definition:

" "European reinsurance undertaking" means an undertaking having its head office in a Member

State or an EEA State, other than Malta, pursuing business restricted to reinsurance within the meaning of Article 2 of the Solvency II Directive which has received authorisation in accordance with Article 14 of the Solvency II Directive;"

(xxii) immediately after the new definition "European reinsurance undertaking", there shall be added the following new definition:

" "European right" means the entitlement of an authorised insurance undertaking, authorised reinsurance undertaking, European insurance undertaking or a European reinsurance undertaking to establish a branch, or provide services, in a Member State or an EEA State, other than that in which it has its head office -

(a) in accordance with the Treaty of Rome as applied in a Member State or an EEA State;

(b) subject to the requirements of the Solvency II Directive and subject to any regulations made under this Act, or Insurance Rules issued by the competent authority pursuant to this Act, implementing such requirements;"

(xxiii) immediately after the new definition "European right", there shall be added the following new definition:

" "European Systemic Risk Board" means the European Systemic Risk Board established by Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;"

(xxiv) immediately after the new definition "European Systemic Risk Board", there shall be added the following new definition:

" "financial undertaking" means any of the following entities:

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(a) a credit institution, a financial institution or an ancillary banking services undertaking within the meaning of Article 4(1), (5) and (21) of Directive 2006/48/EC respectively;

(b) an insurance undertaking, or a reinsurance undertaking or an insurance holding company within the meaning of Article 212(1)(f) of the Solvency II Directive;

(c) an investment firm or a financial institution within the meaning of Article 4(1)(1) of Directive 2004/39/EC; or

(d) a mixed financial holding company within the meaning of Article 2(15) of Directive 2002/87/EC;"

(xxv) immediately after the definition "general business", there shall be added the following new definition:

" "group" means a group of undertakings that:

(a) consists of a participating undertaking, its subsidiaries and the entities in which the participating undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a relationship as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC; or

(b) is based on the establishment, contractually or otherwise, of strong and sustainable financial relationships among those undertakings, and that may include mutual or mutual-type associations, provided

that:

(i) one of those undertakings effectively exercises, through centralised coordination, a dominant influence over the decisions, including financial decisions, of the other undertakings that are part of the group; and

(ii) the establishment and dissolution of such relationships for the purposes of Title III of the Solvency II Directive are subject to prior approval by the group supervisor,

where the undertaking exercising the centralised coordination shall be considered as the parent undertaking, and the other undertakings shall be considered as subsidiaries;"

(xxvi) for the definition "guarantee fund", there shall be substituted the following:

" "guarantee fund" means the body referred to in Article 10(1) of Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability;"

(xxvii) in the Maltese text, for the definition "holding company" there shall be substituted the following:

" "kumpannija *holding*" għandha l-istess tifsira bħal dik mogħtija lill-kliem "*parent company*" fl-Att dwar il-Kumpanniji;"

Каp. 386.

(xxviii) for the definition "insurance rule", there shall be substituted the following:

" "Insurance Rules" means rules in respect of the business of insurance issued by the competent authority under various articles of this Act and

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under any regulations made thereunder;"

(xxix) for the definition "Lloyd's", there shall be substituted the following:

" "Lloyd's" means the society and corporation incorporated by Lloyd's Act, 1871, of the United Kingdom;"

(xxx for the definition "Malta's international commitments", there shall be substituted the following:

" "Malta's international commitments" means Malta's commitments, responsibilities and obligations arising out of membership of the European Union and membership of, or affiliation to, or relationship with, any international, global or regional organisations or grouping of countries or out of any treaty, convention or other international agreement, however called, whether bilateral or multilateral, including Memoranda of Understanding, to which Malta is a party;"

(xxxii) the definition " "margin of solvency" and "Malta margin of solvency" and "EEA margin of solvency" " shall be deleted;

(xxxiii) immediately after the definition "money laundering", there shall be added the following new definition:

Cap. 104. " "motor vehicle" has the same meaning as assigned to it by article 2 of the Motor Vehicle Insurance (Third Party Risks) Ordinance;"

(xxxiiii) the definition "mutual association" shall be deleted;

(xxxv) in the definition "officer", for the words "in relation to a company, includes a director, partner," there shall be substituted the words "in relation to an undertaking, includes a director,";

(xxxvi) immediately after the definition "officer", there shall be added the following new definition;

" "outsourcing" means an arrangement of any

form between an authorised insurance or reinsurance undertaking and a service provider, whether a supervised entity or not, by which that service provider performs a process, a service or an activity, whether directly or by sub-outsourcing, which would otherwise be performed by the authorised insurance or reinsurance undertaking itself, and "outsource" shall be construed accordingly;"

(xxxvi) for the definition "overseas regulatory authority", there shall be substituted the following:

Cap. 330. " "overseas regulatory authority" means an authority in a country or territory outside Malta, that is not a Member State or EEA State, which exercises any regulatory or supervisory function in relation to financial services corresponding to a function of the competent authority as defined in the Malta Financial Services Authority Act;"

(xxxvii) for the definition "own funds", there shall be substituted the following:

" "own funds" shall be construed in accordance with Insurance Rules made by the competent authority for the purposes of this Act;"

(xxxiii) immediately after the definition "own funds", as amended, there shall be added the following new definition:

" "participation" means the ownership, direct or by way of control, of 20% or more of the voting rights or capital of an undertaking;"

(xix) immediately after the new definition "participation", as amended, there shall be added the following new definition:

" "participating undertaking" means an undertaking which is either a parent undertaking or other undertaking which holds a participation, or an undertaking linked with another undertaking by a relationship as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the

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Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC";

(xl) for the definition "qualifying shareholding", there shall be substituted the following:

" "qualifying shareholding" means a direct or indirect holding in an undertaking which represents ten *per centum* or more of the share capital or of the voting rights, taking into account the voting rights as set out in Articles 9 and 10 of Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, and amending Directive 2001/34/EC, as well as the conditions regarding aggregation thereof laid down in Article 12(4) and (5) of that Directive, or which makes it possible to exercise a significant influence over the management of the undertaking in which that holding subsists, and "qualifying shareholder" shall be construed accordingly:

Provided that, in determining whether the criteria for a qualifying shareholding are fulfilled, the competent authority shall not take into account voting rights or shares which investment firms or credit institutions may hold as a result of providing the underwriting of financial instruments and, or placing of financial instruments on a firm commitment basis in terms of point 6 of Section A of Annex 1 to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 96/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, provided that those rights are, on the one hand, not exercised or otherwise used to intervene in the management of the issuer and, on the other, disposed of within one year of

acquisition;";

(xli) immediately after the definition "reconstruction", there shall be added the following new definition:

" "regulated market" means either of the following:

Cap. 345. (a) in the case of a market situated in Malta, a market authorised in terms of the Financial Markets Act;

(b) in the case of a market situated in a Member State or an EEA State, other than Malta, a regulated market as defined in Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directive 85/611/EEC and 96/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time; or

(c) in the case of a market situated in a non-Member State or non-EEA State, a financial market which fulfils the following conditions:

(i) it is recognised by the competent authority and fulfils requirements comparable to those laid down in Directive 2004/39/EC; and

(ii) the financial instruments dealt in on that market are of a quality comparable to that of the instruments dealt in on the regulated market or markets in Malta;";

(xlii) immediately after the new definition "regulated market", there shall be added the following new definition:

" "Regulation (EU) No 1094/2010" refers to Regulation (EU) No. 1094/2010 of the European

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Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC;"

(xlili) in the proviso to paragraph (b) of the definition "risk situated in Malta", for the words "Provided that, where a vehicle is dispatched from a Member State", there shall be substituted the words "Provided that, where a motor vehicle is dispatched from a Member State";

(xlv) immediately after the definition "subsidiary", there shall be added the following new definition:

" "Solvency II Directive" means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), as amended from time to time, and includes any delegated acts and any technical standards that have been or may be issued thereunder;"

(xlv) for the definition "technical provisions", there shall be substituted the following:

" "technical provisions", shall be construed in accordance with article 18E;"

(xlvi) immediately after the definition "technical provisions", there shall be added the following new definition:

" "third country insurance undertaking" means an undertaking, other than a European insurance undertaking, which would require authorisation as an authorised insurance undertaking pursuant to article 7 as if its head office were situated in Malta;"

(xlvii) immediately after the new definition "third country insurance undertaking", there shall be added the following new definition:

" "third country reinsurance undertaking"

means an undertaking, other than a European reinsurance undertaking, which would require authorisation as an authorised reinsurance undertaking in accordance with article 7 as if its head office were situated in Malta;"

(xlviii) immediately after the new definition "third country reinsurance undertaking", there shall be added the following new definitions:

" "undertaking" refers to an undertaking whose head office is in Malta or in a country outside Malta;

Cap. 386. "undertaking whose head office is in Malta" means a limited liability company formed and registered in Malta in accordance with the Companies Act;"

(xlix) the definition "valuation regulations" shall be deleted;

(l) the definition "vehicle" shall be deleted; and

(b) for sub-article (2) thereof, there shall be substituted the following:

"(2) The objective of this Act is, in part, to transpose and implement the provisions of:

(a) the Solvency II Directive;

(b) the Omnibus II Directive: Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority);

(c) Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009, relating to insurance against civil liability in respect of the use of motor vehicles, and the

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enforcement of the obligation to insure against such liability, as amended from time to time; and

(d) any other European Union Directives and Regulations that may be issued and amended from time to time relating to the regulation of and the prudential requirements applicable to insurance and reinsurance undertakings,

and consequently this Act and any regulations and Insurance Rules issued thereunder shall be interpreted and applied accordingly."

Amendment of article 3 of the principal Act.

5. Article 3 of the principal Act shall be amended as follows:

(a) for the words "under this Act and to ensure that persons authorised to carry on the business of insurance", there shall be substituted the words "under this Act and any regulations or Insurance Rules made thereunder and to ensure that insurance and reinsurance undertakings carrying on the business of insurance"; and

(b) for the words, "with any insurance rule made by the competent authority", there shall be substituted the words, "with any Insurance Rules made and directives issued by the competent authority".

Substitution of article 4 of the principal Act.

6. For article 4 of the principal Act, there shall be substituted the following:

"Powers and duties of the competent authority.

4. (1) When carrying out its functions under this Act, the competent authority shall, in particular, have regard to:

(a) the protection of insured persons, policy holders, beneficiaries and the general public;

(b) the protection of the reputation of Malta, taking into account Malta's international commitments; and

(c) the promotion of competition and choice.

(2) The competent authority shall, in the exercise of its duties, take into account the convergence in respect of supervisory tools and supervisory practices in the application of this Act, and of the regulations and Insurance Rules made thereunder, pursuant to the Solvency II Directive.

(3) For the purpose of sub-article (2):

(a) the competent authority shall participate in the activities of EIOPA;

(b) the competent authority shall comply with the guidelines and recommendations issued by EIOPA in accordance with Article 16 of Regulation (EU) No 1094/2010 and, if not, shall state the reasons for not doing so; and

(c) national mandates conferred on the competent authority shall not inhibit the performance of its duties under this Act or as a member of EIOPA.

(4) The competent authority may make Insurance Rules as may be required for carrying into effect any of the provisions of this Act and of any regulations made thereunder. The competent authority may amend or revoke such Insurance Rules. Insurance Rules and any amendment or revocation thereof shall be officially communicated to the persons concerned.

(5) The competent authority may make Insurance Rules as may be required for the purpose of implementing the guidelines and recommendations issued by EIOPA under Article 16 of Regulation (EU) No. 1094/ 2010, for the preparation, phasing-in, and implementation of the Solvency II Directive.

(6) Insurance Rules shall be binding on authorised insurance and reinsurance undertakings and others as may be specified therein."

7. Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) in the marginal note thereto, for the words "Classification of business of insurance.", there shall be substituted the words, "Classification of business of insurance and ancillary risks.";

(b) in sub-article (1) thereof, for the words "Subject to the provisions of sub-articles (5) and (6).", there shall be substituted the words "Subject to the provisions of sub-article (2).";

(c) for sub-articles (2), (3) and (4) thereof, there shall be substituted the following:

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"(2) An authorised insurance undertaking which has obtained an authorisation for a principal risk belonging to one class or group of classes as specified in the Third Schedule may also insure risks included in another class in the said Schedule without the need to obtain authorisation in respect of such risks provided that the risks fulfil all the following conditions:

(a) they are connected with the principal risk;

(b) they concern the object which is covered against the principal risk; and

(c) they are covered by the contract insuring the principal risk.

(3) Notwithstanding the provisions of sub-article (2), the risks included in classes 14, 15 and 17 in Part I of the Third Schedule shall not be regarded as risks ancillary to other classes:

Provided that, legal expenses insurance as set out in class 17 may be regarded as a risk ancillary to class 18, where the conditions laid down in sub-article (2) and either of the following conditions are fulfilled:

(a) the main risk relates solely to the assistance provided for persons who fall into difficulties while travelling, while away from the home or their habitual residence; or

(b) the insurance concerns disputes or risks arising out of, or in connection with, the use of sea-going vessels.

(4) For the purposes of this article, a contract of insurance is to be treated as falling within the Second Schedule, notwithstanding the fact that it contains related and subsidiary provisions within general business class 1 or 2 of Part I of the Third Schedule to the Act, if its principal object is that of a contract falling within the Second Schedule to the Act and if such contract is effected or carried out by an undertaking authorised under article 7 to carry on long term business class 1.";

(d) sub-articles (5), (6) and (7) thereof shall be deleted;

(e) sub-article (8) thereof shall be renumbered as sub-article (5);

(f) in sub-article (5) thereof, as renumbered:

(i) in the Maltese text, for the words "permezz ta' regola dwar l-assigurazzjoni li ssir għall-finijiet ta' dan l-artikolu,", there shall be substituted the words "permezz ta' Regoli dwar l-Assigurazzjoni li jsiru għall-finijiet ta' dan l-artikolu,"; and

(ii) for the words "in the rule contain such conditions or include such requirements or arrangements as may be determined by the rule.", there shall be substituted the words "in the Insurance Rules, contain such conditions or include such requirements or arrangements as may be determined by such Insurance Rules."

8. Article 6 of the principal Act shall be amended as follows:

Amendment of article 6 of the principal Act.

(a) for sub-article (2) thereof, there shall be substituted the following:

"(2) Sub-article (1) shall not apply to a European insurance undertaking and a European reinsurance undertaking establishing a branch or providing services in Malta in exercise of a European right.";

(b) sub-article (3) thereof shall be deleted; and

(c) sub-articles (4) and (5) thereof shall be renumbered as sub-articles (3) and (4) respectively.

9. Article 7 of the principal Act shall be amended as follows:

Amendment of article 7 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "may authorise a company", there shall be substituted the words "may authorise an undertaking";

(ii) in paragraph (a) thereof, for the words "in the case of a company", there shall be substituted the words "in the case of an undertaking";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(b) in the case of a third country insurance

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undertaking or a third country reinsurance undertaking, in or from Malta,";

(b) in sub-article (2) thereof, for the words "and a company may not carry", there shall be substituted the words "and an undertaking may not carry";

(c) sub-articles (3), (4), (5), (6), (7), (8), and (9) thereof shall be renumbered as sub-articles (5), (6), (7), (8), (9) (10) and (12) respectively;

(d) immediately after sub-article (2) thereof, there shall be added the following new sub-articles:

"(3) An authorisation issued under this article shall entitle an undertaking whose head office is in Malta to carry on business of insurance in a Member State or EEA State, in exercise of a European right, subject to a notification to the competent authority as determined in accordance with regulations made under article 64.

(4) Without prejudice to article 5, an authorisation under this article shall also be required if an undertaking, which holds an authorisation to carry on business of insurance or reinsurance in a class or classes of insurance, intends to extend its business to a class or to classes of business other than those classes for which it is already authorised.";

(e) in sub-article (5) thereof, as renumbered, for the words "any company to provide such information", there shall be substituted the words "any undertaking to provide such information";

(f) sub-article (9) thereof, as renumbered, shall be amended as follows:

(i) for the words "Subject to sub-article (8)", there shall be substituted the words "Subject to sub-article (10)"; and

(ii) for the words "within six months of receiving the information required", there shall be substituted the words "within six months of receiving a properly completed application form together with the requisite documentation required";

(g) in sub-article (10) thereof, as renumbered, for the

words "by sub-article (7)", there shall be substituted the words "by sub-article (9)";

(h) immediately after sub-article (10) thereof, as renumbered, there shall be added the following new sub-article:

"(11) The competent authority shall not consider the economic needs of the market as a criterion when examining an application for an authorisation.";

(i) for sub-article (12) thereof, as renumbered, there shall be substituted the following:

"(12) On the issue to an undertaking of an authorisation under this article, any previous authorisation of that undertaking under this article shall lapse."; and

(j) immediately after sub-article (12) thereof, as renumbered, there shall be added the following new sub-article:

"(13) The competent authority shall notify EIOPA of every authorisation issued in terms of this article.".

10. For article 8 of the principal Act, there shall be substituted the following:

Amendment of article 8 of the principal Act.

"Authorisation requirements.

8. (1) The competent authority shall not issue an authorisation under article 7 unless it is satisfied that -

(a) an application for authorisation is made in writing by an undertaking in such form and manner as the competent authority may from time to time determine;

(b) (i) in the case of an undertaking which intends to carry on business not restricted to reinsurance, the undertaking's objects are limited to business of insurance and operations arising directly therefrom, to the exclusion of all other commercial business;

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(ii) in the case of an undertaking which intends to carry on business restricted to reinsurance, the undertaking's objects are limited to the business of reinsurance and related operations; this may include a holding company function and activities with respect to financial sector activities within the meaning of Article 2(8) of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, as amended from time to time;

(c) the undertaking has disclosed to the satisfaction of the competent authority such information as the competent authority has requested of it in relation to persons who will, upon the authorisation of the undertaking, have any proprietary, financial or other interest in, or in connection with, that undertaking;

(d) the undertaking has disclosed the identities of the shareholders, direct or indirect, whether natural or legal persons who will have qualifying holdings in that undertaking and the amounts of those holdings;

(e) all qualifying shareholders, directors, controllers and all persons who will effectively direct or manage the business of insurance are fit and proper persons to ensure the sound and prudent management of the undertaking;

(f) the undertaking has submitted to the satisfaction of the competent authority a scheme of operations which shall include the particulars or proof as may be determined by Insurance Rules made for the purpose of this article;

(g) the undertaking holds eligible basic own funds to cover the absolute floor of the Minimum Capital Requirement in accordance with article 17;

(h) the undertaking shows evidence that it will be in a position to hold eligible own funds to cover the Solvency Capital Requirement, in accordance with article 15, going forward;

(i) the undertaking shows evidence that it will be in a position to hold eligible basic own funds to cover the Minimum Capital Requirement, in accordance with article 17, going forward;

(j) the undertaking shows evidence that it will be in a position to comply with the system of governance provided for in article 18I.

(2) Without prejudice to article 5, an undertaking seeking authorisation to extend its business of insurance to other classes or to extend an authorisation covering only some of the risks pertaining to one class shall be required to:

(a) submit a scheme of operations referred to in sub-article (1)(f);

(b) submit proof that it possesses eligible own funds to cover the Solvency Capital Requirement and Minimum Capital Requirement in accordance with articles 15 and 17 respectively.

(3) The competent authority shall not issue an authorisation under article 7, where close links exist between an undertaking applying for authorisation and any other natural or legal persons:

(a) if it considers that such close links prevent it from effectively exercising its supervisory functions; and

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(b) if it considers that the laws, regulations or administrative provisions of a third country governing any one or more natural or legal persons with whom the undertaking has close links or difficulties involved in the enforcement of those measures, prevent it from effectively exercising its supervisory functions.

(4) For the purpose of ensuring compliance with the provisions of sub-article (3)(a), the competent authority shall require authorised insurance and reinsurance undertakings to provide it with the information necessary for it to monitor compliance with the conditions referred to in sub-article (3)(a) on a continuous basis."

Amendment of article 9 of the principal Act.

11. Article 9 of the principal Act shall be amended as follows:

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) Subject to sub-articles (2) and (3), the competent authority shall not, under article 7, authorise an undertaking with its head office in Malta to carry on both long term business and general business.";

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (3) and (4) respectively;

(c) immediately after sub-article (1) thereof, there shall be inserted the following new sub-article (2):

"(2) Without prejudice to the provisions of sub-article (1) -

(a) an insurance undertaking authorised to carry on long term business may be granted an authorisation to carry on general business for the risks listed in classes 1 and 2 of Part I of the Third Schedule; or

(b) an insurance undertaking authorised solely to carry on general business of insurance for the risks listed in classes 1 and 2 of Part I of the Third Schedule may be granted authorisation to carry on long term business; or

(c) an insurance undertaking authorised

solely to carry on general business of insurance may be granted authorisation to carry on long term business restricted to reinsurance.";

(d) for sub-article (3) thereof, as renumbered, there shall be substituted the following:

"(3) Without prejudice to the provisions of sub-article (4), the provisions of this article shall not apply to an undertaking which holds an authorisation to carry on both long term business and general business under this Act as in force immediately before the coming into force of this Act.";

(e) in sub-article (4) thereof, as renumbered, for the words, "A company authorised", there shall be substituted the words, "An undertaking authorised";

(f) immediately after sub-article (4) thereof, as renumbered, there shall be added the following new sub-articles:

"(5) An authorised insurance undertaking carrying on long term business and seeking authorisation to extend its business to the risks listed in classes 1 or 2 of Part I of the Third Schedule shall submit proof to the satisfaction of the competent authority that it:

(a) possesses the eligible basic own funds to cover the absolute floor of the Minimum Capital Requirement for undertakings authorised to carry on long term business and the absolute floor of the Minimum Capital Requirement for undertakings authorised to carry on general business, in accordance with article 17;

(b) undertakes to cover the minimum financial obligations as determined in accordance with Insurance Rules, going forward.

(6) An authorised insurance undertaking carrying on general business for the risks listed in classes 1 or 2 of Part 1 of the Third Schedule and seeking authorisation to extend its business to long term business shall submit proof to the competent authority that it:

(a) possesses the eligible basic own funds

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to cover the absolute floor of the Minimum Capital Requirement for undertakings authorised to carry on long term business and the absolute floor of the Minimum Capital Requirement for undertakings authorised to carry on general business, in accordance with article 17;

(b) undertakes to cover the minimum financial obligations as determined in accordance with Insurance Rules, going forward.

(7) For the avoidance of doubt, an undertaking whose business is restricted to reinsurance, may be granted an authorisation to carry on both general and long term business in all classes of business."

Amendment of article 10 of the principal Act.

12. Article 10 of the principal Act shall be amended as follows:

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) The competent authority shall not issue an authorisation under article 7 to an undertaking whose head office is in Malta, nor shall the competent authority permit such undertaking to hold the authorisation issued thereunder, unless it is satisfied that the undertaking has fulfilled or complied with the requirements of article 8 and, where appropriate, of article 9."

(b) in sub-article (2) thereof, for the words, "A company authorised", there shall be substituted the words, "An undertaking authorised";

(c) for sub-article (3) thereof, there shall be substituted the following:

"(3) Except with the written consent of the competent authority, no undertaking authorised as aforesaid shall carry on, nor hold itself out as carrying on business of insurance in or from a country outside Malta or open a branch, agency or office or set up or acquire any subsidiary in any country outside Malta."

Amendment of article 11 of the principal Act.

13. For article 11 of the principal Act, there shall be

substituted the following:

"Applicants with head office outside Malta.

11. (1) The competent authority shall not issue an authorisation under article 7 to a third country insurance undertaking or third country reinsurance undertaking, nor shall the competent authority permit such undertaking to hold the authorisation issued thereunder, unless the undertaking -

(a) is permitted in the country where its head office is situated to carry on the business of insurance which forms the object of the application;

(b) has in Malta at all times:

(i) a general representative fulfilling the requirements of article 12; and

(ii) a branch;

(c) undertakes to set up at the place of management of the branch, accounts specific to the business of insurance which it carries on in Malta, and to maintain there all the records relating to the business carried on;

(d) undertakes to cover the Solvency Capital Requirement and the Minimum Capital Requirement in accordance with the requirements referred to in articles 15 and 17;

(e) submits a scheme of operations in accordance with article 8(1)(f); and

(f) fulfils the governance requirements referred to in article 18I.

(2) In relation to a branch of a third country insurance undertaking or third country reinsurance undertaking, the business of insurance shall be carried on under the management of a person fulfilling the following requirements of this sub-article:

(a) the person must be an individual resident in Malta or an insurance manager who has been designated by the undertaking for the purpose of this article;

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(b) the person must not be the approved auditor, or a partner or an employee of the approved auditor, of the undertaking;

(c) the person possesses the qualifications and fulfils or complies with the requirements determined by Insurance Rules made for the purpose of this article; and

(d) the person is fit and proper to ensure its sound and prudent management.

(3) A third country insurance or reinsurance undertaking shall be required to:

(a) establish adequate technical provisions to cover the insurance and reinsurance obligations arising from the business carried out by the branch in Malta, calculated in accordance with Insurance Rules; and

(b) value assets and liabilities and determine own funds in accordance with Insurance Rules.

(4) A third country insurance and reinsurance undertaking shall be required to maintain in Malta at all times an amount of eligible own funds consisting of the items to be determined in accordance with regulations made for the purposes of this Act and deposit a specified proportion of such own funds as may be prescribed under article 18G.

(5) (a) Branches of third country insurance undertakings shall not simultaneously pursue long term business and general business in Malta.

(b) For the avoidance of doubt, a branch of a third country reinsurance undertaking may be granted an authorisation to carry on both general and long term business, in all classes of business, restricted to reinsurance.

(6) For the purposes of this article, "branch" means a permanent presence in Malta of a third country insurance undertaking or third country reinsurance undertaking, which has received authorisation in Malta to carry on business of insurance in Malta.

(7) The provisions of this article shall be subject to any agreements concluded by the European Community with one or more third countries in terms of Article 171 of the Solvency II Directive."

14. Article 12 of the principal Act shall be amended as follows: Amendment of article 12 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "article 11(1)(d)(i)", there shall be substituted the words "article 11(1)(b)(i)";

(ii) in paragraph (a) thereof, for the words "designated as the company's representative", there shall be substituted the words "designated as the undertaking's representative";

(iii) in paragraph (b) thereof, for the words "on behalf of the company", there shall be substituted the words "on behalf of the undertaking";

(iv) in paragraph (c) thereof, for the words "of the company", there shall be substituted the words "of the undertaking"; and

(b) in sub-article (2) thereof, for the words "obligations of the company", there shall be substituted the words "obligations of the undertaking".

15. For Part IV of the principal Act, there shall be substituted the following: Substitution of Part IV of the principal Act.

**"PART IV
CONDITIONS FOR CARRYING ON BUSINESS
OF INSURANCE**

Title I: Financial Requirements

Own funds of authorised insurance and reinsurance undertakings.

14. (1) The own funds of an authorised insurance and reinsurance undertaking shall comprise the sum of basic own funds and ancillary own funds.

(2) The amounts of ancillary own fund items to be taken into account when determining own funds shall be subject to the prior written approval of the competent authority.

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(3) The competent authority shall issue Insurance Rules to determine the items making up the basic own funds and ancillary own funds, determine what constitutes surplus funds, provide for the classification of own funds into tiers and the eligibility of the own funds, and any other matter relating thereto.

Solvency
Capital
Requirement.

15. (1) An authorised insurance and reinsurance undertaking shall hold eligible own funds covering the Solvency Capital Requirement.

(2) The Solvency Capital Requirement shall be calculated either in accordance with the standard formula as set out in Insurance Rules or using a full or partial internal model as approved by the competent authority. The process for the approval of the use of an internal model shall be set out in Insurance Rules.

(3) Where it is inappropriate for an authorised insurance or reinsurance undertaking to calculate the Solvency Capital Requirement in accordance with the standard formula, as set out in the Insurance Rules since the risk profile of the undertaking concerned deviates significantly from the assumptions underlying the standard formula calculation, the competent authority may, by means of a decision stating the reasons, require the undertaking concerned to use an internal model to calculate the Solvency Capital Requirement, or the relevant risk modules thereof.

Non-
Compliance
with the
Solvency
Capital
Requirement.

16. (1) An authorised insurance or reinsurance undertaking which fails to comply with article 15 shall immediately inform the competent authority as soon as it observes that the Solvency Capital Requirement is no longer complied with, or where there is a risk of non-compliance in the following three months.

(2) Within two months from the observation of non-compliance with the Solvency Capital Requirement, the authorised insurance or reinsurance undertaking shall submit a realistic recovery plan in accordance with Insurance Rules issued under article 18A for approval by the competent authority.

(3) The competent authority shall require the undertaking concerned to take the necessary measures to achieve, within six months from the observation of non-compliance with the Solvency Capital Requirement, the re-establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of the risk profile of the undertaking to ensure compliance with the Solvency Capital Requirement.

(4) The competent authority may, if appropriate, extend that period by three months.

(5) The competent authority may issue Insurance Rules to determine the circumstances within which the period set out in sub-article (4) may be extended and the requirements to be complied with by the authorised insurance and reinsurance undertakings in such circumstances.

(6) In exceptional circumstances, where the competent authority is of the opinion that the financial situation of the authorised insurance or reinsurance undertaking concerned will deteriorate further, it may also restrict or prohibit the free disposal of the assets of that undertaking.

(7) Where the competent authority decides to restrict or prohibit the free disposal of the assets of that undertaking, it shall inform the European regulatory authorities of the host Member States or the overseas regulatory authorities of any measures it has taken. The competent authority may request those authorities concerned to take the same measures, and shall designate the assets to be covered by such measures.

Minimum
Capital
Requirement.

17. (1) An authorised insurance and reinsurance undertaking shall hold eligible basic own funds to cover the Minimum Capital Requirement.

(2) The Minimum Capital Requirement shall be calculated in accordance with Insurance Rules made for the purpose of this article, and shall be not less than the amounts (the absolute floor) as determined by the said Insurance Rules.

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Non-
Compliance
with Minimum
Capital
Requirement.

18. (1) An authorised insurance or reinsurance undertaking which fails to comply with article 17 shall immediately inform the competent authority where it observes that the Minimum Capital Requirement is no longer complied with or where there is a risk of non-compliance in the following three months.

(2) Within one month from the observation of non-compliance with the Minimum Capital Requirement, the undertaking concerned shall submit, for approval by the competent authority, a short-term realistic finance scheme, in accordance with Insurance Rules issued under article 18A, to restore, within three months of that observation, the eligible basic own funds, at least to the level of the Minimum Capital Requirement or to reduce its risk profile to ensure compliance with the Minimum Capital Requirement.

(3) The competent authority may also restrict or prohibit the free disposal of the assets of the undertaking concerned.

(4) Where the competent authority decides to restrict or prohibit the free disposal of assets of the undertaking concerned, it shall inform the European regulatory authorities of the host Member State or the overseas regulatory authorities, of any measures it has taken. The competent authority may request those authorities concerned to take the same measures, and shall designate the assets to be covered by such measures.

Recovery plan
and finance
scheme.

18A. The particulars to be provided in the recovery plan and the finance scheme required to be submitted pursuant to articles 16 and 18 shall be determined by Insurance Rules.

Identification
and notification
procedures.

18B. An authorised insurance or reinsurance undertaking shall have procedures in place, including the use of early warning indicators, to identify deteriorating financial conditions and shall immediately notify the competent authority when such deterioration occurs.

Powers of the competent authority in deteriorating financial conditions.

18C. (1) Notwithstanding the provisions of articles 16 and 18 and without prejudice to any of the measures that may be taken by the competent authority pursuant to article 28, where the solvency position of the authorised insurance or reinsurance undertaking continues to deteriorate, the competent authority shall have the power to take all measures necessary to safeguard the interests of policyholders, in the case of contracts of insurance, or the obligations arising out of contracts of reinsurance.

(2) In considering the measures to be taken, the competent authority shall take into account the level and duration of the deterioration of the solvency position of the undertaking concerned.

Valuation of assets and liabilities.

18D. Authorised insurance and reinsurance undertakings shall value their assets and liabilities in accordance with Insurance Rules made for the purposes of this Act.

Technical provisions.

18E. (1) Authorised insurance and reinsurance undertakings shall establish and maintain technical provisions with respect to all of their insurance and reinsurance obligations towards policyholders and insureds of insurance or reinsurance contracts.

(2) The value and calculation of technical provisions shall be determined in accordance with Insurance Rules made for the purposes of this article.

(3) Without prejudice to anything contained in any other provisions under the Act, the competent authority may, whenever it deems it necessary, require the authorised insurance or reinsurance undertaking concerned to demonstrate the appropriateness of the level of the undertaking's technical provisions, as well as, the applicability and relevance of the methods applied, and the adequacy of the underlying statistical data used.

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(4) To the extent that the calculation of technical provisions of an authorised insurance or reinsurance undertaking does not comply with the Insurance Rules made for the purposes of this article, the competent authority may require the insurance or reinsurance undertaking concerned to increase the amount of technical provisions so that they correspond to the level determined by such Insurance Rules.

(5) Where an authorised insurance or reinsurance undertaking fails to comply with the provisions of this article, the competent authority may prohibit the free disposal of its assets after having communicated its intentions to the European regulatory authority of the host Member State or the overseas regulatory authority. The competent authority shall designate the assets to be covered by such measures.

Report on
solvency and
financial
condition.

18F. (1) Without prejudice to the information which is to be submitted to the competent authority pursuant to article 32, an authorised insurance and reinsurance undertaking with its head office in Malta shall disclose publicly, on an annual basis, a report on the undertaking's solvency and financial condition. The report shall contain the information determined by Insurance Rules made for the purposes of this article.

(2) The competent authority shall, upon a written request by an authorised insurance or reinsurance undertaking, permit an undertaking not to disclose information where:

(a) by disclosing such information, the competitors of the undertaking concerned would gain significant undue advantage;

(b) there are obligations to policyholders or other counterparty relationships binding the undertaking concerned to secrecy or confidentiality.

(3) Where non-disclosure of information is permitted by the competent authority, the authorised insurance or reinsurance undertaking concerned shall make a statement to this effect in its report on solvency and financial condition and shall state the reasons.

(4) The competent authority shall permit an authorised insurance or reinsurance undertaking to make use of or refer to public disclosures made under other legal or regulatory requirements, to the extent that those disclosures are equivalent to the information required to be submitted under sub-article (1) in both their nature and scope.

(5) Where the reason for any permitted non-disclosure obtained pursuant to sub-article (2) ceases to exist, the undertaking concerned shall inform the competent authority without undue delay and such undertaking shall comply with the obligations arising under sub-article (1).

(6) In the event of any major development affecting significantly the relevance of the information disclosed in accordance with this article, an authorised insurance or reinsurance undertaking shall disclose appropriate information on the nature and effects of that major development. The circumstances considered as major developments and the disclosures to be made by the undertaking in such circumstances shall be determined by Insurance Rules.

(7) An authorised insurance and reinsurance undertaking may disclose, on a voluntary basis, any information or explanation related to their solvency and financial condition which is not already required to be disclosed in accordance with this article.

Custody of
assets required
to be
maintained in
Malta.

18G. (1) The competent authority may, with respect to assets which an undertaking is required by or under this Act to maintain in Malta, impose an additional requirement that the whole or a specified proportion of such assets shall be deposited with and held in custody for the undertaking's account by a person as may be prescribed by regulations made for the purposes of this article unless that requirement is otherwise imposed by any other provision of this Act; and the competent authority shall at all times have the right to demand from such person any information it may require to ensure that the provisions of this article are being complied with.

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(2) Any requirement by or under this Act that assets of any kind or amount are to be maintained in Malta shall be satisfied if such assets are maintained in such country outside Malta and in such form and manner to the satisfaction of the competent authority subject to such regulations as may be prescribed for such purpose under this Act.

(3) Any provision by or under this Act requiring an undertaking to maintain in Malta assets of any kind or amount may be satisfied by the undertaking if the undertaking produces a security in a form and manner to the satisfaction of the competent authority subject to such regulations as may be prescribed for such purpose under this Act.

(4) The assets required to be maintained in Malta by or under this Act shall not be transferred, withdrawn or in any way encumbered without the permission of the competent authority given in writing or until the company has ceased to carry on the business it was authorised to carry on and proves to the satisfaction of the authority that it has no further liability. Such assets shall not be attachable by any court.

Title II: Systems of Governance

Responsibility
of the Board of
Directors.

18H. The Board of Directors of an authorised insurance or reinsurance undertaking shall be ultimately responsible for the compliance by the undertaking concerned with the Act, regulations, and Insurance Rules issued thereunder, including any other obligations pursuant to the Solvency II Directive.

System of
governance.

18I. (1) Authorised insurance and reinsurance undertakings shall be required to have in place an effective system of governance which provides for sound and prudent management of the business of the undertaking. The system of governance requirements shall be laid down in Insurance Rules.

(2) An authorised insurance and reinsurance undertaking shall:

(a) ensure that all persons who effectively run the undertaking or have other key functions, at all times, satisfy the fit and proper criteria;

(b) have in place an effective risk management system, including a risk management function;

(c) as part of its risk management system, conduct its own risk and solvency assessment;

(d) have in place an effective internal control system, which shall include a compliance function;

(e) provide for an effective internal audit function;

(f) provide for an effective actuarial function;

(g) if it outsources any of its functions or any insurance or reinsurance activities, remain fully responsible for discharging all of its obligations under this Act.

(3) The systems and functions referred to in sub-article (2) shall be determined by Insurance Rules.

(4) The system of governance shall be proportionate to the nature, scale and complexity of the operations of the authorised insurance or reinsurance undertaking."

16. Article 19 of the principal Act shall be amended as follows:

Amendment of article 19 of the principal Act.

(a) in the marginal note thereto, for the words "Financial year of authorised companies.", there shall be substituted the words "Financial year of authorised undertakings.";

(b) for sub-article (1) thereof, there shall be substituted the following:

"(1) Every undertaking whose head office is in Malta applying for authorisation under article 7 of this Act to carry on business of insurance in or from Malta shall notify in writing the competent authority of its financial year; and, failing such notice, the undertaking's financial

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year shall terminate on the thirty-first day of December of each year.";

(c) in sub-article (2) thereof, for the words "No company as aforesaid", there shall be substituted the words "No undertaking as aforesaid";

(d) in sub-article (3) thereof:

(i) for the words "Every company whose head office is in a country outside Malta", there shall be substituted the words "Every third country insurance or reinsurance undertaking";

(ii) for the words "an authorised company", there shall be substituted the words "an authorised undertaking";

(e) in sub-article (4) thereof:

(i) in paragraph (a) thereof, for the words "an authorised company", there shall be substituted the words "an authorised undertaking";

(ii) for paragraph (b) thereof, there shall be substituted the following:

"(b) in relation to a third country insurance or reinsurance undertaking, means an accounting period as is construed in accordance with the provisions of the laws of the country where the head office of the undertaking is situated governing the accounting period of such undertakings."

Amendment of
article 20 of the
principal Act.

17. Article 20 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof:

(i) for the words "every company authorised under this Act shall, not later than six months from the closing of its financial year", there shall be substituted the words "every undertaking authorised under this Act shall, within the period stipulated by regulations made or Insurance Rules issued under article 32 or at any other time as may be authorised in writing by the competent authority, -";

(ii) in paragraph (a) thereof, for the words,

"competent authority;", there shall be substituted the words "competent authority; and";

(iii) paragraph (b) thereof shall be deleted;

(iv) paragraph (c) thereof shall be renumbered as paragraph (b); and

(v) for sub-paragraphs (i) and (ii) thereof, there shall be substituted the following:

"(i) in the case of an undertaking whose head office is in Malta, in accordance with Insurance Rules made for the purposes of this article; and

(ii) in the case of a third country insurance or reinsurance undertaking, in accordance with the provisions of the laws of the country where the head office of the undertaking is situated governing the financial statements of such undertakings.";

(b) in sub-article (1A) thereof:

(i) for the words "In each of the cases referred to in paragraphs (i) and (ii) in sub-article (1) the company shall provide", there shall be substituted the words "The undertaking shall provide"; and

(ii) in the proviso thereof, for the words, "Provided that the company", there shall be substituted the words, "Provided that the undertaking";

(c) sub-article (2) thereof shall be deleted;

(d) sub-article (3) thereof shall be renumbered as sub-article (2);

(e) in sub-article (2) thereof, as renumbered, for the words "In the case of a company whose head office is in Malta, sub-article (1)(c) shall apply as respects the company's offices", there shall be substituted the words, "In the case of an undertaking whose head office is in Malta, sub-article (1)(b) shall apply as respects the undertaking's offices"; and

(f) immediately after sub-article (2) thereof, as renumbered, there shall be added the following new sub-article:

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"(3) The audited financial statements shall be drawn up and published in such manner and form as may be specified in Insurance Rules."

Amendment of article 21 of the principal Act.

18. Article 21 of the principal Act shall be amended as follows:

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) Every undertaking authorised under this Act shall every year appoint an approved auditor as auditor to the undertaking whose duty shall be to report on the financial statements of the undertaking examined by him and on financial statements prepared by the undertaking.";

(b) in sub-article (2) thereof:

(i) for the words "If an authorised company fails", there shall be substituted the words "If an authorised undertaking fails"; and

(ii) for the words "for that company and shall fix the remuneration to be paid by that company", there shall be substituted the words "for that undertaking and shall fix the remuneration to be paid by that undertaking";

(c) in sub-article (3) thereof:

(i) in the Maltese text, for the words "u ta' kull regola dwar l-assigurazzjoni", there shall be substituted the words "u ta' Regoli dwar l-Assigurazzjoni"; and

(ii) for the words "in respect of the company", there shall be substituted the words "in respect of the undertaking";

(d) in sub-article (4) thereof:

(i) for the words "auditor of an authorised company", there shall be substituted the words "auditor of an authorised undertaking"; and

(ii) for the words "under an appointment from, that company.", there shall be substituted the words "under an appointment from, that undertaking.";

(e) in sub-article (6) thereof:

(i) for the words "An authorised company", there shall be substituted the words "An authorised undertaking"; and

(ii) for the words "before the company's annual general meeting", there shall be substituted the words "before the undertaking's annual general meeting";

(f) in sub-article (7) thereof, for the words "the authorised company shall,", there shall be substituted the words "the authorised undertaking shall,";

(g) in sub-article (8) thereof, for the words "an authorised company to change", there shall be substituted the words "an authorised undertaking to change";

(h) in sub-article (9) thereof:

(i) for the words "an authorised company", there shall be substituted the words "an authorised undertaking";

(ii) for the words "to the company"; there shall be substituted the words "to the undertaking"; and

(iii) for the words "with the company", there shall be substituted the words "with the undertaking";

(i) in sub-article (11) thereof, for the words "in the case of a company whose head office is in a country outside Malta", there shall be substituted the words "in the case of a third country insurance or reinsurance undertaking";

(j) in sub-article (12) thereof, for the words "apply to authorised companies", there shall be substituted the words "apply to authorised undertakings".

19. Article 22 of the principal Act shall be amended as follows:

Amendment of
article 22 of the
principal Act.

(a) in the marginal note thereto, for the words "Appointment of actuary by company with long term business.", there shall be substituted the words "Appointment of actuary by an undertaking with long term business.";

(b) in sub-article (1) thereof:

(i) for the words "Every company authorised under this Act to carry on long term business shall -", there

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shall be substituted the words "Every authorised insurance undertaking carrying on long term with-profits business in terms of classes I and III as specified in the Second Schedule shall -"; and

(ii) in paragraph (a) thereof, for the words "to the company;", there shall be substituted the words "to the undertaking to perform the with-profits actuary function in respect of the said classes of its with-profits business, (if any);";

(c) in sub-article (2) thereof:

(i) for the words "A company", there shall be substituted the words "An undertaking"; and

(ii) for the words "the company shall,", there shall be substituted the words "the undertaking shall,";

(d) for sub-article (3) thereof, there shall be substituted the following:

"(3) If, on the expiry of any period specified in sub-article (1), the undertaking fails to make the required appointment, the undertaking shall not effect and carry out any new long term contracts of insurance in terms of the classes specified in sub-article (1) until the appointment is made.";

(e) in sub-article (5) thereof:

(i) paragraphs (a) and (b) thereof shall be renumbered as paragraphs (b) and (c) respectively;

(ii) immediately before paragraph (b) thereof, as renumbered, there shall be added the following new paragraph:

"(a) does not hold a role or perform a function on behalf of the undertaking which could give rise to a significant conflict of interest;"

(iii) for paragraph (b) thereof as renumbered, there shall be substituted the following:

"(b) is a Fellow of an Institute of Actuaries, or a Fellow of a Faculty of Actuaries, or holds actuarial qualifications of similar standing of an

institute of repute recognised for such purposes by the competent authority and has the required skill and holds appropriate practical experience to perform his functions as an actuary; and";

(iv) for paragraph (c) thereof, as renumbered, there shall be substituted the following:

"(c) holds the competent authority's approval to act as actuary to perform the with-profits actuary function as set out in article 23."

20. Article 23 of the principal Act shall be amended as follows:

Amendment of article 23 of the principal Act.

(a) in the marginal note thereto, for the words "investigation of company", there shall be substituted the words "investigation of an undertaking";

(b) for sub-article (1) thereof, there shall be substituted the following:

"(1) Every authorised insurance undertaking carrying on long term with-profits business in terms of classes I and III as specified in the Second Schedule shall, at the close of its financial year, require the approved actuary to provide a report in respect of the period covered by the report affecting those classes of with-profits business of the undertaking.";

(c) sub-articles (2), (3), (4), (6) and (7) thereof, shall be deleted;

(d) immediately after sub-article (1) thereof, as amended, there shall be added the following new sub-article (2):

"(2) The information to be provided in the report shall be determined by Insurance Rules issued by the competent authority for the purposes of this article.";

(e) sub-articles (5) and (8) thereof, shall be renumbered as sub-articles (3) and (4), respectively;

(f) for sub-article (3) thereof, as renumbered, there shall be substituted the following:

"(3) The actuary's report shall be forwarded by the undertaking concerned to the competent authority, together

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with the audited financial statements of the undertaking required to be forwarded under article 20.";

(g) in sub-article (4) thereof, as renumbered:

(i) for the words "a company whose head office is in a country outside Malta", there shall be substituted the words "a third country insurance undertaking"; and

(ii) for the words "authorised to carry on long term business, the competent authority may", there shall be substituted the words "authorised to carry on long term with-profits business in terms of classes I and III as specified in the Second Schedule, the competent authority may".

Substitution of article 24 of the principal Act.

21. For article 24 of the principal Act, there shall be substituted the following:

"Obligations of auditors and actuaries to the competent authority.

24. (1) An auditor or an actuary of an authorised insurance or reinsurance undertaking or of a branch in Malta of a third country insurance or reinsurance undertaking shall have the duty to report immediately to the competent authority any fact or decision concerning that undertaking of which he becomes aware of in his capacity as auditor or actuary of any such authorised insurance or reinsurance undertaking or of any such branch which relates to any matter which may be prescribed or is likely to bring about the following:

(a) a serious qualification, or refusal, of the auditor's report on the accounts of the undertaking or the branch; or

(b) a grave impairment of the undertaking's ability to continue as a going concern; or

(c) a material breach of the provisions of this Act, regulations or any Insurance Rules which lay down the conditions governing authorisation or which specifically govern the carrying on of business of insurance by an authorised undertaking or branch; or

(d) non-compliance with the Solvency Capital Requirement; or

(e) non-compliance with the Minimum Capital Requirement.

(2) The auditor or actuary, as the case may be, shall likewise have a duty to report to the competent authority any facts or decisions of which he becomes aware of in the course of carrying out his duties which relate to or have a serious adverse effect upon the insured, the policyholder or any other interested person relating to the undertaking or the branch in Malta of a third country insurance or reinsurance undertaking of which he becomes aware of in his capacity as auditor or actuary to an undertaking having close links with an authorised insurance or reinsurance undertaking.

(3) Without prejudice to any provision contained in this Act, the competent authority may request the auditor or the actuary, as the case may be, to provide it with such information and documentation relating to any fact or decision as specified in sub-articles (1) or (2) concerning the authorised insurance or reinsurance undertaking or branch in Malta of a third country insurance or reinsurance undertaking."

22. Article 25 of the principal Act shall be amended as follows:

Amendment of article 25 of the principal Act.

(a) for the words "if the authorised company -", there shall be substituted the words "if the authorised insurance or reinsurance undertaking -";

(b) paragraph (a) thereof shall be deleted;

(c) paragraphs (b), (c) and (d) thereof shall be renumbered as paragraphs (a), (b) and (c) respectively;

(d) in paragraph (b) thereof, as renumbered, for the words "another company carrying on business", there shall be substituted the words "another undertaking carrying on business"; and

(e) for paragraph (c) thereof, as renumbered, there shall be substituted the following:

"(c) is a third country insurance or reinsurance undertaking, and the overseas regulatory authority in the

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country of registration, incorporation or constitution withdraws the authorisation from the undertaking."

Amendment of
article 26 of the
principal Act.

23. Article 26 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof:

(i) for the words "or if the authorised company has concealed," there shall be substituted the words "or if the authorised insurance or reinsurance undertaking has concealed,"; and

(ii) for the words "any regulations made thereunder or any insurance rule," there shall be substituted the words "any regulations, or any Insurance Rules made thereunder,";

(b) for paragraph (b) thereof, there shall be substituted the following:

"(b) the authorised insurance or reinsurance undertaking ceases to carry on the business for which the authorisation was issued for more than six months; or";

(c) in paragraph (c) thereof, for the words "the authorised company", there shall be substituted the words "the authorised insurance or reinsurance undertaking";

(d) in paragraph (d) thereof, for the words "the authorised company does not fulfil", there shall be substituted the words "the authorised insurance or reinsurance undertaking does not fulfil";

(e) in paragraph (e) thereof, for the words "that any officer who effectively controls the business the company", there shall be substituted the words "that any of the directors, the controllers and any other person who effectively directs the business the undertaking";

(f) in paragraph (f) thereof, for the words "the authorised company", there shall be substituted the words "the authorised insurance or reinsurance undertaking";

(g) paragraphs (g), (h) and (i) thereof shall be renumbered as paragraphs (h), (j) and (k) respectively;

(h) immediately after paragraph (f) thereof, there shall be added the following new paragraph:

"(g) the authorised insurance or reinsurance undertaking does not commence to carry on business pursuant to the authorisation within twelve months of its issue; or";

(i) for paragraph (h) thereof, as renumbered, there shall be substituted the following:

"(h) the authorised insurance or reinsurance undertaking no longer possesses sufficient own funds as determined in article 14; or";

(j) immediately after paragraph (h) thereof, as renumbered, there shall be added the following new paragraph:

"(i) the authorised insurance or reinsurance undertaking does not comply with the Minimum Capital Requirement and the competent authority considers that the finance scheme submitted is manifestly inadequate or the undertaking concerned fails to comply with the approved scheme within three months from the observation of non-compliance with the Minimum Capital Requirement;";

(k) in paragraph (j) thereof, as renumbered, for the words "the authorised company", there shall be substituted the words "the authorised insurance or reinsurance undertaking";

(l) in paragraph (k) thereof, as renumbered:

(i) for the words "close links within the meaning of article 8, exist between the authorised company", there shall be substituted the words "close links exist between the authorised insurance or reinsurance undertaking"; and

(ii) for the words "in their enforcement.", there shall be substituted the words "in their enforcement; or";

(m) immediately after paragraph (k) thereof, as renumbered, there shall be added the following new paragraph:

"(l) any of the circumstances under which the competent authority would have been precluded from issuing an authorisation under this Act, materialises itself or where under this Act it would have been entitled to

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refuse to issue such authorisation."

Amendment of
article 27 of the
principal Act.

24. Article 27 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "give the company concerned notice", there shall be substituted the words "give the undertaking concerned notice";

(b) in sub-article (2) thereof:

(i) for the words "shall state that the company concerned", there shall be substituted the words "shall state that the undertaking concerned"; and

(ii) for the words "not longer than fifteen days)", there shall be substituted the words "not longer than thirty days)";

(c) in sub-article (3) thereof, for the words "to the company concerned.", there shall be substituted the words "to the undertaking concerned.";

(d) in sub-article (4) thereof, for the words "issued to a company whose head office is in a country outside Malta", there shall be substituted the words "issued to a third country insurance or reinsurance undertaking";

(e) for sub-article (5) thereof, there shall be substituted the following:

"(5) In the case of a suspension or a revocation of an authorisation of an undertaking whose head office is in Malta, the competent authority shall:

(a) notify the European regulatory authorities accordingly in order to enable them to take appropriate measures to prevent the insurance or reinsurance undertaking from commencing new operations within their territories;

(b) inform accordingly the overseas regulatory authority of any state in which the undertaking or its subsidiaries are carrying on the business of insurance.";

(f) immediately after sub-article (5) thereof, as amended, there shall be added the following new sub-article:

"(6) The competent authority shall notify EIOPA of any revocation of authorisation in terms of articles 25 and 26."

25. Article 28 of the principal Act shall be amended as follows: Amendment of article 28 of the principal Act.

(a) in sub-article (1) thereof:

(i) in paragraph (a) thereof, for the words "require the company", there shall be substituted the words "require the undertaking";

(ii) in paragraph (b) thereof, for the words "to advise the company", there shall be substituted the words "to advise the undertaking";

(iii) paragraphs (c), (d), (e), (f), (g), (h) and (i) thereof, shall be renumbered as paragraphs (d), (e), (f), (g), (h),(i) and (j) respectively;

(iv) immediately after paragraph (b) thereof, there shall be added the following new paragraph:

"(c) restrict the free disposal of the assets of the authorised insurance undertaking, to safeguard the interests of the insured persons;"

(v) in paragraph (d) thereof, as renumbered:

(aa) for the words "the assets of the company", there shall be substituted the words "the assets of the undertaking"; and

(bb) for the words "policyholders, creditors and shareholders of the company", there shall be substituted the words "policyholders and legitimate creditors of the undertaking";

(vi) in paragraph (e) thereof, as renumbered, for the words "the business of the company", there shall be substituted the words "the business of the undertaking";

(vii) in paragraph (f) thereof, as renumbered, for the words "the company or, in the case of a company whose head office is in a country outside Malta", there shall be substituted the words "the undertaking or, in the case of a third country insurance or reinsurance

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undertaking";

(viii) in paragraph (g) thereof, as renumbered, for the words "the affairs of the company", there shall be substituted the words "the affairs of the undertaking";

(ix) in paragraph (h) thereof, as renumbered, for the words "paid by the company", there shall be substituted the words "paid by the undertaking";

(x) paragraph (i) thereof, as renumbered, shall be deleted; and

(xi) paragraph (j) thereof, as renumbered, shall be renumbered as paragraph (i);

(b) in sub-article (2) thereof:

(i) in paragraph (a) thereof, for the words "it shall be the duty of the company to act", there shall be substituted the words "it shall be the duty of the undertaking to act";

(ii) in paragraph (b) thereof:

(aa) for the words "under sub-article (1)(c), the company", there shall be substituted the words "under sub-article (1)(d), the undertaking";

(bb) for the words "of the company in respect of those assets, whether exercisable by the company in general meeting", there shall be substituted the words "of the undertaking in respect of those assets, whether exercisable by the undertaking in general meetings"; and

(cc) for the words "judicial representation of the company", there shall be substituted the words "judicial representation of the undertaking";

(iii) for paragraph (c) thereof, there shall be substituted the following:

"(c) under sub-article (1)(e), the undertaking shall submit its business to the control of such person and shall provide him with such facilities as he may require the undertaking to provide him to carry on that business or to carry out the functions

assigned to him under the said paragraph; and all the powers, functions and duties of the undertaking, whether exercisable by the undertaking in general meeting, or by the directors, or by any other person, including the legal and judicial representation of the undertaking in all matters, shall be exercisable by and vest in him to the exclusion of any other person;"

(iv) in paragraph (d) thereof, for the words "under sub-article (1)(f) such person shall be the liquidator of the company", there shall be substituted the words "under sub-article (1)(g) such person shall be the liquidator of the undertaking";

(c) for sub-article (3) thereof, there shall be substituted the following:

"(3) In the case of a third country insurance or reinsurance undertaking, the branches and offices in Malta of that undertaking shall, if the competent authority so directs and to the extent it so directs, be deemed to constitute a separate undertaking.";

(d) for sub-article (4) thereof, there shall be substituted the following:

Cap. 330 "(4) The provisions of article 16(8) of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to any administrative or disciplinary sanction or measure, of whatever type, including reprimands or warnings, imposed or decided by the competent authority under this Act, and any regulations made thereunder or any Insurance Rules."; and

(e) in sub-article (5) thereof, for the words "may require the company concerned", there shall be substituted the words "may require the undertaking concerned".

26. In the heading of PART VII of the principal Act, for the words "SUPERVISION OF AUTHORISED COMPANIES", there shall be substituted the words "SUPERVISION OF AUTHORISED INSURANCE AND REINSURANCE UNDERTAKINGS".

Amendment of Part VII of the principal Act.

27. Article 29 of the principal Act shall be amended as follows:

Amendment of article 29 of the principal Act.

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(a) in sub-article (1) thereof:

(i) for the words "an authorised company", there shall be substituted the words "an authorised insurance or reinsurance undertaking";

(ii) for the words "require any such company to -", there shall be substituted the words "require any such undertaking or any person who appears to be in possession of any relevant information and, or documentation to do all or any of the following:";

(iii) for paragraph (a) thereof, there shall be substituted the following:

"(a) to furnish to it, at such time and place and in such form as it may specify, such information and documentation as it may require including existing telephone and existing data traffic records, with respect to the business such undertaking is authorised to carry on; or with respect to any person with whom the undertaking has close links;"

(iv) for paragraph (b) thereof, there shall be substituted the following:

"(b) to furnish to it any information or documentation aforesaid verified in such manner and in such language, as it may specify;"

(v) in paragraph (c) thereof, for the words "attend before it", there shall be substituted the words "to attend before it";

(b) in sub-article (3) thereof:

(i) for the words "an authorised company", there shall be substituted the words "an authorised insurance or reinsurance undertaking"; and

(ii) for the words "may require any person, whether indicated", there shall be substituted the words "may require any person, including a person to which the undertaking has outsourced any activities or functions, whether indicated";

(c) immediately after sub-article (7) thereof, there shall

be added the following new sub-article (8):

Cap. 204 "(8) Without prejudice to the other provisions of this article, an authorised insurance or reinsurance undertaking may be required by the competent authority to submit to the Central Bank of Malta such information as the Bank may reasonably require for the discharge of its duties under the Central Bank of Malta Act."

28. Article 30 of the principal Act shall be amended as follows: Amendment of article 30 of the principal Act.

(a) in the marginal note thereto, for the words "examine the affairs of authorised companies.", there shall be substituted the words "examine the affairs of authorised undertakings and service providers.";

(b) in sub-article (1) thereof:

(i) for the words "the investigation of companies", there shall be substituted the words "the investigation of undertakings"; and

(ii) for the words "one or more inspectors to examine the affairs of an authorised company", there shall be substituted the words "one or more inspectors to investigate and report on the affairs of an authorised insurance or reinsurance undertaking";

(c) in paragraph (b) of sub-article (2) thereof, for the words "to the said Authority.", there shall be substituted the words, "to the said authority.";

(d) in sub-article (3) thereof, for the words "may forward to the company concerned a copy of any report", there shall be substituted the words "may forward to the authorised insurance or reinsurance undertaking concerned a copy of any report, or any part thereof,";

(e) for sub-article (4) thereof, there shall be substituted the following:

"(4) Where the affairs of an authorised insurance or reinsurance undertaking are under examination, it shall be the duty of all officers and agents of the undertaking to

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produce to an inspector all books and documents of or relating to the undertaking and otherwise to give to an inspector all assistance in connection with the examination which they are reasonably able to give; and if an officer or an agent of the undertaking refuses to produce any books or documents which it is his duty under this article to produce, or refuses to answer any question which is put to him by an inspector with respect to the affairs of the undertaking, an inspector shall refer the matter to the competent authority and the competent authority shall thereupon enquire into the case and take appropriate action as it deems necessary.";

(f) in sub-article (5) thereof, for the words "to an authorised company", there shall be substituted the words "to an authorised insurance or reinsurance undertaking";

(g) sub-articles (6) and (7) shall be renumbered as sub-articles (9) and (10) respectively;

(h) immediately after sub-article (5) thereof, there shall be added the following new sub-articles:

"(6) Where the information relating to an authorised insurance or reinsurance undertaking is in any language other than Maltese or English, the competent authority or any inspector appointed by it, may require that such information be submitted in either the English or Maltese language.

(7) (a) Where an authorised insurance or reinsurance undertaking outsources a function or activity, the competent authority shall have effective access to the business premises of the service provider and must be able to exercise those rights of access.

(b) Where the service provider is located in a Member State or EEA State, other than Malta, the competent authority shall inform the appropriate authority of the Member State or EEA State of the service provider prior to conducting an on-site inspection at the premises of the service provider. In the case of a non-supervised entity, the appropriate authority shall be the European regulatory authority concerned. The competent authority may delegate such on-site inspections to the European regulatory authority of the Member State or EEA State where the service provider is located.

(8) Where the competent authority has informed the European regulatory authority that it intends to carry out an on-site inspection in accordance with sub-article (7), or where it carries out an on-site inspection in accordance with the said sub-article, where the competent authority is unable in practice to exercise its right to carry out that on-site inspection, the competent authority may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No. 1094/2010.";

(i) in sub-article (9) thereof, as renumbered, for the words "shall be paid by the company concerned", there shall be substituted the words "shall be paid by the undertaking concerned";

(j) for sub-article (10) thereof, as renumbered, there shall be substituted the following:

Cap. 487 "(10) In this article, any reference to officers or to agents shall include a reference to former as well as present officers or agents and the expression "agents", in relation to an authorised insurance or reinsurance undertaking, shall include an insurance intermediary, registered or enrolled under the Insurance Intermediaries Act, or registered with an authority or body in the Member State or EEA State responsible for the supervision of insurance intermediaries acting for the undertaking, the bankers, the auditors and, in the case of an undertaking authorised to carry on long term business, the actuary of the undertaking and a person as may be prescribed by regulations made for the purposes of article 18G.";

(k) immediately after sub-article (10) thereof, as renumbered, there shall be added the following new sub-articles:

"(11) The powers available to the competent authority pursuant to articles 29 to 31A with regard to authorised insurance and reinsurance undertakings shall also be available with regard to the outsourced activities of such undertakings.

(12) The provisions of sub-article (7) shall apply *mutatis mutandis* where the service provider is located in a country outside Malta, which is not a Member State or

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EEA State."

Amendment of
article 31 of the
principal Act.

29. Article 31 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, for the words "on producing evidence of his authority," there shall be substituted the words, "on producing, if required, evidence of his authority,"; and

(b) in the proviso to sub-article (3) thereof, for the words "Provided that where an entry", there shall be substituted the words "Provided that, where an entry".

Amendment of
article 31A of
the principal
Act.

30. Article 31A of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "within the time and in the manner stated in the directive.", there shall be substituted the words "within the time and in the manner stated in the directive or any further directive.";

(b) sub-articles (2) and (3) thereof shall be renumbered as sub-articles (3) and (4), respectively; and

(c) immediately after sub-article (1) thereof, there shall be added the following new sub-article:

"(2) Without prejudice to the generality of the foregoing provisions of this article, a directive under this article may –

(a) require anything to be done or be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement, including any requirement emanating from European Union legislation, and confer powers, with respect to any transaction or other act, or to any assets, or to any other thing whatsoever;

(b) require that any officer of an undertaking having functions in relation to the holder of an authorisation be prohibited, temporarily or otherwise, suspended from carrying out activities licensable under the Act, or removed, or removed and replaced, by another person acceptable to the competent authority;".

31. Immediately after article 31A of the principal Act, there shall be added the following new articles:

Addition of articles 31B and 31C of the principal Act.

"Supervisory review process.

31B. (1) The competent authority shall review and evaluate the strategies, processes and reporting procedures which are established by authorised undertakings to comply with this Act, regulations made and Insurance Rules issued thereunder. This review and evaluation shall comprise the assessment of the qualitative requirements relating to the system of governance, the assessment of the risks which the undertakings concerned face or may face and the assessment of the ability of those undertakings to assess those risks taking into account the environment in which the undertakings are operating.

(2) The competent authority shall in particular review and evaluate compliance with the following:

(a) the system of governance, including the own-risk and solvency assessment, as set out in article 18I;

(b) the technical provisions as provided for in article 18E;

(c) the capital requirements as provided for in articles 15 and 17;

(d) the investment rules as set out in Insurance Rules issued in terms of this Act;

(e) the quality and quantity of own funds as determined by Insurance Rules issued pursuant to article 14;

(f) where the authorised insurance or reinsurance undertaking uses a full or partial internal model, on-going compliance with the requirements for full and partial internal models set out in Insurance Rules issued pursuant to article 15.

(3) The competent authority shall assess the adequacy of the methods and practices of the authorised insurance or reinsurance undertakings designed to identify possible events or future changes in economic conditions that could have adverse effects on the overall financial standing of the undertaking concerned.

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(4) The competent authority shall assess the ability of the authorised undertakings to withstand those possible events or future changes in economic conditions.

(5) Where the competent authority identifies any weakness or deficiency as a consequence of the supervisory review process, it shall request the insurance or reinsurance undertaking concerned to remedy such weakness or deficiency within such period and in such manner as it may deem necessary or appropriate in the circumstances.

(6) The reviews, evaluations and assessments referred to sub-articles (1) to (4), shall be conducted regularly and the competent authority shall establish the minimum frequency and the scope of those reviews, evaluations and assessments having regard to the nature, scale and complexity of the activities of the insurance or reinsurance undertaking concerned.

(7) In the case of events or future changes in economic conditions that could have unfavourable effects on the overall financial standing of authorised insurance or reinsurance undertakings, in addition to the calculation of the Solvency Capital Requirement, the competent authority may require undertakings to carry out such tests as may be determined to assess the ability of the undertakings concerned to withstand such events or future changes in economic conditions that could have unfavourable effects on their overall financial stability.

Power to set a capital add-on.

31C.(1) Following the supervisory review process carried out in terms of article 31B, the competent authority may, in exceptional circumstances, set a capital add-on for an authorised insurance or reinsurance undertaking stating the reasons for its decision. Such power shall be exercised in the following cases:

(a) where it concludes that the risk profile of the authorised insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement, as calculated using the standard formula in accordance with article 15; and

(i) the requirement to use an internal model under article 15(3) is inappropriate or has been ineffective; or

(ii) while a partial or full internal model is being developed in accordance with article 15(3);

(b) where it concludes that the risk profile of the authorised insurance or reinsurance undertaking deviates significantly from the assumptions underlying the Solvency Capital Requirement, as calculated using an internal model or partial internal model because certain quantifiable risks are captured insufficiently and the adaptation of the model to better reflect the given risk profile has failed within an appropriate timeframe;

(c) where it concludes that the system of governance of an authorised insurance or reinsurance undertaking deviates significantly from the standards laid down in article 18I and Insurance Rules issued thereunder, that those deviations prevent the undertaking from being able to properly identify, measure, monitor, manage and report the risks that it is or could be exposed to and the application of other measures is in itself unlikely to improve the deficiencies sufficiently within an appropriate timeframe;

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(d) the authorised insurance or reinsurance undertaking applies the matching adjustment or the volatility adjustment referred to in Articles 77b and 77d of the Solvency II Directive, respectively, or the transitional measures referred to in Articles 308c and 308d of the said Directive and the competent authority concludes that the risk profile of that undertaking deviates significantly from the assumptions underlying those adjustments and transitional measures; or

(e) in any of those circumstances as may be additionally specified by the Solvency II Directive.

(2) In the circumstances set out:

(a) in paragraphs (a) and (b) of sub-article (1), the capital add-on shall be calculated in such a way as to ensure that the undertaking complies with Article 101(3) of the Solvency II Directive;

(b) in paragraph (c) of sub-article (1), the capital add-on shall be proportionate to the material risk arising from the deficiencies which gave rise to the decision of the competent authority to set the add-on; and

(c) in paragraph (d) of sub-article (1), the capital add-on shall be proportionate to the material risk arising from the deviation referred to in that paragraph.

(3) In the cases set out in paragraphs (b) and (c) of sub-article (1), the authorised insurance or reinsurance undertaking shall remedy the deficiencies that led to the imposition of the capital add-on without delay.

(4) The competent authority shall review the capital-add on, at least once a year and it shall approve the removal of such capital add-on when the undertaking has remedied the deficiencies which led to its imposition.

(5) The Solvency Capital Requirement including the capital add-on imposed shall replace the inadequate Solvency Capital Requirement:

Provided that, the Solvency Capital Requirement shall not include the capital add-on imposed in accordance with sub-article (1)(c), for the purposes of the calculation of the risk margin referred to in Article 77(5) of the Solvency II Directive."

32. For article 32 of the principal Act, there shall be substituted the following: Amendment of article 32 of the principal Act.

"Information to be provided for supervisory purposes. **32.** An authorised insurance and reinsurance undertaking shall submit to the competent authority the information which is necessary for the purposes of supervision, taking into account the objectives of supervision, as may be specified by means of regulations or Insurance Rules which shall also specify the period within which this information is to be submitted."

33. Immediately after Part VII of the principal Act, there shall be added the following new part: Addition of new Part VIIA of the principal Act.

"PART VIIA GROUP SUPERVISION

Group supervisions. **32A.** The competent authority shall supervise at the level of group authorised insurance and reinsurance undertakings which are part of a group in accordance with Insurance Rules issued for the purposes of this Part.

Group supervisor. **32B. (1)** The group supervisor of insurance and reinsurance undertakings which are part of a group, shall be responsible for co-ordination and the exercise of group supervision.

(2) For the purposes of this Part, "group supervisor" means the supervisory authority responsible for group supervision, determined in accordance with Article 247 of the Solvency II Directive.

(3) Where the competent authority is the group supervisor, it shall, with regard to group supervision, carry out the following functions:

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(a) coordination of the gathering and dissemination of relevant or essential information for going concern and emergency situations, including the dissemination of information which is of importance for the carrying out of the supervisory tasks of authorities responsible for the supervision of an individual insurance or reinsurance undertaking in the group;

(b) supervisory review and assessment of the financial situation of the group;

(c) assessment of compliance of the group with the rules on solvency and of risk concentration and intra-group transactions as set out in Articles 218 to 245 of the Solvency II Directive;

(d) assessment of the system of governance of the group, as set out in Article 246 of the Solvency II Directive, and of whether the board of directors of the participating undertaking fulfills the requirements of fitness and properness set out in Articles 42 and 257 of the Solvency II Directive;

(e) planning and coordination, through regular meetings held at least annually or through other appropriate means, of supervisory activities in going-concern as well as in emergency situations, in cooperation with the authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group, and taking into account the nature, scale and complexity of the risks inherent in the business of all undertakings that are part of the group;

(f) other tasks, measures and decisions assigned to the competent authority, as group supervisor, by the Solvency II Directive or deriving from the application of that Directive, in particular leading the process for validation of any internal model at group level as set out in Articles 231 and 233 of Solvency II Directive and leading the process for permitting the application of the regime established in Articles 237 to 240 of the said Directive.

(4) In order to facilitate the exercise of group supervision tasks, set out in sub-article (3), a college of supervisors shall be established. It shall be chaired by the competent authority where it is the group supervisor. The membership, functioning and consultation processes of the college of supervisors shall be determined by regulations or Insurance Rules.

Co-operation and exchange of information with respect to group supervision.

32C. (1) Where the competent authority is the group supervisor, it shall cooperate closely with the other authorities responsible for the supervision of individual insurance or reinsurance undertakings in a group, in particular, in cases where an insurance or reinsurance undertaking within the group encounters financial difficulties.

(2) Where the competent authority is one of the authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group, it shall cooperate closely with other responsible authorities in the group and the group supervisor, in particular, in cases where an insurance or reinsurance undertaking encounters financial difficulties.

(3) Where the competent authority is the group supervisor or is one of the authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group, it shall -

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(a) provide other authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group with such information so as to allow and facilitate the exercise of the supervisory tasks concerned under the Solvency II Directive;

(b) communicate all relevant information to such authorities without delay, as soon as it becomes available or exchange information on request; and

(c) call immediately for a meeting of all the authorities involved in the supervision of the group, at least where -

(i) it becomes aware of a significant breach of the Solvency Capital Requirement or a breach of the Minimum Capital Requirement of an individual insurance or reinsurance undertaking;

(ii) it becomes aware of a significant breach of the Solvency Capital Requirement at group level calculated on the basis of consolidated data or the aggregated group Solvency Capital Requirement, in accordance with whichever calculation method is used, in Title III, Chapter II, Section I, Subsection 4 of the Solvency II Directive; or

(iii) other exceptional circumstances are occurring or have occurred.

(4) Where one of the authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group has not communicated relevant information, or a request for cooperation, in particular to exchange relevant information, has been rejected or has not been acted upon within two weeks, the competent authority may refer the matter to EIOPA.

(5) Where the group supervisor fails to carry out the tasks referred to in paragraph (1) of Article 248 of the Solvency II Directive, or where the members of the college of supervisors do not cooperate to the extent required by that sub-article, the competent authority may refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

(6) Where the competent authority is the group supervisor, it shall provide the authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group and EIOPA with information regarding the group in accordance with Article 19, Article 51(1) and Article 254(2) of the Solvency II Directive, in particular regarding the legal structure and the governance and organisational structure of the group.

(7) Without prejudice to Article 248 of the Solvency II Directive, the competent authority shall, where a decision is of importance for the supervisory tasks of the other authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group, prior to taking any decision, consult the said authorities in the college of supervisors with regard to the following:

(a) changes in the shareholding structure, organisational or management structure of an authorised insurance and reinsurance undertaking which is part of a group and which requires the approval or authorisation of the competent authority;

(b) the decision on the extension of the recovery period in accordance with Article 138(3) and (4) of the Solvency II Directive;

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(c) major sanctions or exceptional measures taken by the competent authority, including the imposition of a capital add-on to the Solvency Capital Requirement under article 31C and the imposition of any limitation on the use of an internal model for the calculation of the Solvency Capital Requirement as determined in Insurance Rules made for the purposes of Title I, Chapter VI, Section 4, Subsection 3 of the Solvency II Directive.

(8) For the purposes of paragraph (b) and (c) of sub-article (7) and where the competent authority is not the group supervisor, the group supervisor shall always be consulted.

(9) Where the competent authority is considering a decision based on information received from other authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group, it shall consult such authorities concerned before taking that decision.

(10) Without prejudice to Article 248 of the Solvency II Directive, the competent authority may decide not to consult other authorities in cases of urgency or where such consultation may jeopardise the effectiveness of its decision. In such a case, the competent authority shall without delay, inform the other authorities responsible for the supervision of an individual insurance or reinsurance undertaking in a group.

(11) Where the competent authority is the group supervisor and requires information from an undertaking for the purposes of Article 254(2) of the Solvency II Directive, which has already been given to another authority responsible for the supervision of an individual insurance or reinsurance undertaking in a group, the competent authority shall, whenever possible, contact that authority to obtain such information.

(12) Where a parent undertaking has its head office in Malta and the competent authority is not the group supervisor pursuant to Article 247 of the Solvency II Directive, the competent authority shall, upon request by the group supervisor, require the parent undertaking to provide any relevant information for the exercise of group supervision as set out in Article 248 of the Solvency II Directive, and the competent authority shall transmit such information to the group supervisor.

(13) Where the competent authority is the group supervisor, it may ask the European regulatory authority of a parent undertaking which has its head office in another Member State, to request such undertaking to submit any information which would be relevant for the exercise of its co-ordination rights and duties as set out in Article 248 of the Solvency II Directive, and to transmit it directly to the competent authority.

(14) Information received for the purposes of this article shall be treated as confidential and protected by the duty of professional secrecy.

Verification of information.

32D.(1) Without prejudice to article 30, the competent authority may carry out in Malta, itself or through a person appointed for that purpose, on-site verification of information as referred to in Article 254 of the Solvency II Directive on the premises of any of the following:

(a) an insurance or reinsurance undertaking which is subject to group supervision;

(b) related undertakings of the undertaking referred to in paragraph (a);

(c) parent undertakings of the undertaking referred to in paragraph (a);

(d) related undertakings of a parent undertaking of the undertaking referred to in paragraph (a).

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(2) Where the competent authority requires, in specific cases, to verify information concerning an undertaking, whether regulated or not, which forms part of a group and is situated in another Member State, the competent authority shall:

(a) request the European regulatory authority to enable the competent authority to carry out the on-site verification itself; or

(b) request the European regulatory authority to carry out such verification on its behalf, or to appoint an auditor or an expert to carry out such verification; or

(c) in cases where it does not carry out the on-site verification itself, request to participate in the carrying out of such verification.

(3) Where the competent authority receives, in specific cases, a request by a European regulatory authority to verify the information concerning an undertaking situated in Malta, whether regulated or not, which is part of a group, the competent authority shall act upon that request either by carrying out the on-site verification itself, by allowing an auditor or expert to carry it out, or by allowing the European regulatory authority which made the request to carry it out itself, and such authority may, where it does not carry out such verification itself, participate in the on-site verification.

(4) Where the competent authority has received a request pursuant to sub-article (3), it shall inform the group supervisor of the action taken pursuant to sub-article (3).

(5) Where the request to a European regulatory authority to have a verification carried out in accordance with sub-article (2) has not been acted upon within two weeks, the competent authority may refer the matter to EIOPA and may request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010.

(6) For the purposes of sub-articles (2) and (3), in accordance with Article 21 of Regulation (EU) No. 1094/2010, EIOPA shall be entitled to participate in on-site examinations where they are carried out jointly by the competent authority and any one or more European regulatory authorities.

Parent undertakings outside the Union: verification of equivalence.

32E. The competent authority may adopt regulations or Insurance Rules for the purposes of verification of equivalence of supervision of parent undertakings with their head office in a third country, which form part of a group, as set out in Chapter IV of the Solvency II Directive.

Parent undertaking as a mixed-activity insurance holding company

32F. The competent authority may adopt regulations or Insurance Rules where the parent undertaking of one or more insurance or reinsurance undertakings is a mixed-activity insurance holding company."

34. Article 33 of the principal Act shall be amended as follows:

Amendment of article 33 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "under which a company authorised under this Act ("the transferor"), is to transfer to another company," there shall be substituted the words "under which an authorised insurance undertaking ("the transferor"), is to transfer to another undertaking,";

(ii) in sub-paragraph (a) thereof, for the words "the transferor is a company whose head office is in Malta," there shall be substituted the words "the transferor is an undertaking whose head office is in Malta,"; and

(iii) in sub-paragraph (b) thereof, for the words "the transferor is a company whose head office is in a country outside Malta," there shall be substituted the words "the transferor is a third country insurance undertaking,";

(b) in sub-article (2) thereof:

(i) in sub-paragraph (ii) of paragraph (a) thereof, for the words "where the transferor is a company which carries on business from Malta", there shall be substituted the words "where the transferor is an undertaking which carries on business from Malta"; and

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(ii) in sub-paragraph (ii) of paragraph (c) thereof, for the words "where the transferor is a company which carries on business from Malta", there shall be substituted the words "except in so far as the competent authority has otherwise directed, where the transferor is an undertaking which carries on business from Malta";

(c) in sub-article (4) thereof:

(i) in sub-paragraph (ii) of paragraph (a) thereof, for the words "authorised under article 6 or article 23 of First Council Directive of 24 July 1973 on the co-ordination of laws, Regulations, and administrative provisions relating to the taking up and pursuit of direct insurance other than life assurance (73/239/EEC) to carry on general business", there shall be substituted the words "authorised under Article 14 or Article 162 of the Solvency II Directive to carry on general business";

(ii) in sub-paragraph (iii) of paragraph (a) thereof, for the words "within sub-paragraphs (i) and (ii), the transferee has", there shall be substituted the words "within sub-paragraphs (i) and (ii) of this paragraph, the transferee has";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(b) (i) the transferee referred to in sub-paragraph (i) of paragraph (a) of this sub-article possesses, after taking the proposed transfer into account, the necessary eligible own funds to cover the Solvency Capital Requirement required to be maintained under this Act;

(ii) the transferee referred to in sub-paragraph (ii) of paragraph (a) of this sub-article possesses, after taking the proposed transfer into account, the necessary eligible own funds to cover the Solvency Capital Requirement provided for in Article 100 of the Solvency II Directive; or

(iii) if the transferee does not fall within sub-paragraphs (i) and (ii) of this paragraph, the transferee possesses, or will possess before the scheme takes effect, the solvency requirements required of it by, or under, the law applicable in the

place to which the business is being transferred; and";

(iv) in paragraph (c) thereof:

(aa) in sub-paragraph (i) thereof, for the words "if the transferee is a company authorised", there shall be substituted the words "if the transferee is an undertaking authorised";

(bb) sub-paragraph (ii) thereof shall be renumbered as sub-paragraph (iii), and immediately after sub-paragraph (i) thereof, there shall be added the following new sub-paragraph (ii):

"(ii) if the transferee is a European insurance undertaking, the transferee's financial resources are consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, the law applicable in the place to which the business is being transferred; or"; and

(cc) in sub-paragraph (iii) thereof, as renumbered, for the words "if the transferee is a company whose head office is in a country outside Malta," there shall be substituted the words "if the transferee is a third country insurance undertaking,";

(v) in paragraph (d) thereof:

(aa) for the words "the transferor is a company", there shall be substituted the words "the transferor is an undertaking";

(bb) in sub-paragraph (i) thereof, for the words "the overseas regulatory authority", there shall be substituted the words "the European regulatory authority"; and

(cc) in sub-paragraph (ii) thereof, for the words "the overseas regulatory authority", there shall be substituted the words "the European regulatory authority";

(vi) in paragraph (e) thereof:

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(aa) for the words "if the transferor is a company", there shall be substituted the words "if the transferor is an undertaking";

(bb) in sub-paragraph (i) thereof, for the words "the overseas regulatory authority", there shall be substituted the words "the European regulatory authority";

(cc) sub-paragraph (ii) thereof shall be renumbered as sub-paragraph (iii), and immediately after sub-paragraph (i) thereof, there shall be added the following new sub-paragraph (ii):

"(ii) the overseas regulatory authority where the risk is situated has been notified of the proposed transfer; and"; and

(dd) in sub-paragraph (iii) thereof, as renumbered, for the words "either the overseas regulatory authority has consented to the transfer or the overseas regulatory authority has not refused", there shall be substituted the words "either the European regulatory authority or the overseas regulatory authority has consented to the transfer or the European regulatory authority or the overseas regulatory authority has not refused"; and

(d) in paragraph (a) of sub-article (5) thereof, for the words "of its decision in the Gazette and in such other manner", there shall be substituted the words "of its decision in such manner".

Amendment of
article 34 of the
principal Act.

35. Article 34 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be renumbered as sub-article (3), and immediately after sub-article (1) thereof, there shall be added the following new sub-article (2):

"(2) A transfer approved by the competent authority shall automatically be valid against policyholders, the insured persons and any other person having rights or obligations arising out of the contracts transferred."; and

(b) for sub-article (3) thereof, as renumbered, there shall

be substituted the following:

"(3) Except in so far as the competent authority may otherwise direct, a policyholder whose policy is included in such a scheme shall be given written notice of its carrying out by the transferee."

36. Article 35 of the principal Act shall be amended as follows: Amendment of article 35 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "carried on by a company authorised under this Act ("the transferor company"), is to be transferred to another company whether authorised thereunder or not ("the transferee company"),", there shall be substituted the words "carried on by an authorised insurance undertaking under this Act ("the transferor"), is to be transferred to another undertaking whether authorised thereunder or not ("the transferee"),";

(ii) in paragraph (a) thereof, for the words "where the transferor company is a company", there shall be substituted the words "where the transferor is an undertaking";

(iii) in paragraph (b) thereof, for the words "the transferor company is a company whose head office is in a country outside Malta,", there shall be substituted the words "the transferor is a third country insurance undertaking,"; and

(iv) in the paragraph immediately following paragraph (b), for the words "the transferor company or the transferee company shall,", there shall be substituted the words "the transferor or the transferee shall,", and in the Maltese text, for the words "titlob", there shall be substituted the words "jitlob";

(b) in sub-article (3) thereof:

(i) in sub-paragraph (ii) of paragraph (a) thereof, for the words "where the transferor company is a company which carries on business", there shall be substituted the words "where the transferor is an undertaking which carries on business";

(ii) in sub-paragraph (ii) of paragraph (b) thereof,

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for the words "policyholders of the companies concerned," there shall be substituted the words "policyholders of the undertakings concerned,";

(iii) in the paragraph immediately following sub-paragraph (ii) of paragraph (b), for the words "claim to the transferor company", there shall be substituted the words "claim to the transferor";

(iv) in paragraph (c) thereof, for the words "elapsed since the date of service; and", there shall be substituted the words "elapsed since the date of service;"

(v) in paragraph (d) thereof:

(aa) in sub-paragraph (i) thereof, for the words "of the companies concerned;", there shall be substituted the words "of the undertakings concerned;"

(bb) in sub-paragraph (ii) thereof, for the words "the transferor company", there shall be substituted the words "the transferor";

(cc) in indent (aa) of sub-paragraph (ii) thereof, for the words "a company whose", there shall be substituted the words, "an undertaking whose";

(dd) in indent (bb) of sub-paragraph (ii) thereof, for the words "a company whose head office is in a country outside Malta", there shall be substituted the words "a third country insurance undertaking";

(vi) in the paragraph immediately following indent (bb) of sub-paragraph (ii) of paragraph (d) thereof, for the words "such fee as may be fixed by the Tribunal.", there shall be substituted the words "such fee as may be fixed by the Tribunal; and"; and

(vii) immediately after the paragraph following indent (bb) of sub-paragraph (ii) of paragraph (d) thereof, there shall be inserted the following new paragraph (e):

"(e) the notice and the statement referred to in this sub-article shall state that written representations concerning the transfer may be sent

to the Tribunal within a period determined by the Tribunal.";

(c) for sub-article (4) thereof, there shall be substituted the following:

"(4) On any application filed under sub-article (1) -

(a) the competent authority may be heard by the Tribunal; and

(b) the competent authority and any policyholder who alleges that he would be adversely affected by the carrying out of the scheme and every other person who claims an interest in a policy included in the proposed transfer and has given notice of such interest to the transferor, shall be entitled to make written representations.";

(d) in sub-article (5) thereof:

(i) in sub-paragraph (i) of paragraph (a) thereof, for the words "the transferee company is,", there shall be substituted the words "the transferee is,", and in the Maltese text, for the words "tkun awtorizzata taht l-artikolu 7 biex tmexxi kummerç fit-tul", there shall be substituted the words "ikun awtorizzat taht l-artikolu 7 biex imexxi kummerç fit-tul";

(ii) in sub-paragraph (ii) of paragraph (a) thereof:

(aa) for the words "the transferee company is,", there shall be substituted the words "the transferee is,";

(bb) for the words "authorised under article 4 or article 51 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance,", there shall be substituted the words "authorised under Article 14 or Article 162 of the Solvency II Directive,";

(iii) for paragraph (b) thereof, there shall be substituted the following:

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"(b) (i) the transferee referred to in sub-paragraph (i) of paragraph (a) of this sub-article, produces evidence that after taking the transfer into account, it possesses the necessary eligible own funds to cover the Solvency Capital Requirement required to be maintained under this Act;

(ii) the transferee referred to in sub-paragraph (ii) of paragraph (a) of this sub-article, produces evidence that after taking the transfer into account, it possesses the necessary eligible own funds to cover the Solvency Capital Requirement provided for in Article 100 of the Solvency II Directive ; or

(iii) if the transferee does not fall within sub-paragraphs (i) and (ii), the transferee possesses, or will possess before the scheme takes effect, the solvency requirements required of it by, or under, the law applicable in the place to which the business is being transferred;

(iv) (aa) if the transferee is authorised under this Act, its financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, this Act; or

(bb) if the transferee is a third country insurance undertaking, the transferee's financial resources are, consequential to the transfer, adequate to fulfil the other obligations required of it by, or under, the law applicable in the place to which the business is being transferred;"

(iv) in paragraph (c) thereof:

(aa) for the words "if the transferor is a company", there shall be substituted the words "if the transferor is an undertaking";

(bb) in sub-paragraph (i) thereof, for the words "the overseas regulatory authority", there shall be substituted the words "the European regulatory authority";

(cc) in sub-paragraph (ii) thereof, for the

words "the overseas regulatory authority", there shall be substituted the words "the European regulatory authority";

(e) in sub-article (6) thereof:

(i) for the words "the transferor company is a company", there shall be substituted the words "the transferor is an undertaking";

(ii) for paragraph (a) thereof, there shall be substituted the following:

"(a) that the European regulatory authority in that country has been notified; or";

(iii) paragraph (b) thereof shall be renumbered as paragraph (c), and immediately after paragraph (a) thereof, there shall be added the following new paragraph (b):

"(b) the overseas regulatory authority has been notified of the proposed transfer; and"; and

(iv) in paragraph (c) thereof, as renumbered, for the words "the authority has consented to the scheme or that the authority", there shall be substituted the words "the European regulatory authority or the overseas regulatory authority has consented to the scheme or that any such authority"; and

(f) in sub-article (7) thereof, for the words "the transferee company shall,", there shall be substituted the words "the transferee shall,", and in the Maltese text, for the word "tiddepozita", there shall be substituted the word "jiddepozita".

37. In article 36 of the principal Act, for the words "against the transferee company of any legal proceedings pending by or against the transferor company which relate to the scheme.", there shall be substituted the words "against the transferee of any legal proceedings pending by or against the transferor which relate to the scheme."

Amendment of article 36 of the principal Act.

38. Article 37 of the principal Act shall be amended as follows:

Amendment of article 37 of the principal Act.

(a) in the marginal note thereto, for the words "Exemption under this Part.", there shall be substituted the words "Transfer of business restricted to reinsurance.";

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- (b) sub-article (1) thereof shall be deleted;
- (c) sub-article (2) thereof shall be renumbered as the whole article;
- (d) in the said article, as renumbered:
 - (i) for the words "Where a company authorised", there shall be substituted the words "Where an undertaking authorised";
 - (ii) in sub-paragraph (ii) of paragraph (a) thereof, for the words "article 4 of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC and Directives 98/78/EEC and 2002/83/EC," there shall be substituted the words "Article 14 or 162 of the Solvency II Directive,";
 - (iii) for sub-paragraphs (i) and (ii) of paragraph (b) thereof, there shall be substituted the following:
 - "(i) the transferee referred to in sub-paragraph (i) of paragraph (a) possesses, after taking the proposed transfer into account, the necessary eligible own funds to cover the Solvency Capital Requirement required to be maintained under this Act;
 - (ii) the transferee referred to in sub-paragraph (ii) of paragraph (a) possesses, after taking the proposed transfer into account, the necessary eligible own funds to cover the Solvency Capital Requirement referred to in Article 100 or 166 of the Solvency II Directive; or";
 - (iv) in paragraph (c) thereof:
 - (aa) in sub-paragraph (i) thereof, for the words "the transferee is a company", there shall be substituted the words "the transferee is an undertaking"; and
 - (bb) in paragraph (ii) thereof, for the words "transferee is a company whose head office is in a country outside Malta," there shall be substituted the words "transferee is a third country reinsurance undertaking,".

39. Immediately after article 37 of the principal Act, there shall be added the following new article 37A:

Addition of article 37A to the principal Act.

"Transfer of business of insurance to an authorised insurance or reinsurance undertaking.

37A. (1) Where it is proposed to carry out a transfer of business of insurance under which the whole or part of the general business or long term business of an insurance or reinsurance undertaking is to be transferred to an undertaking authorised under this Act ("the transferee") by an undertaking situated in a country outside Malta, the transferee shall notify the competent authority of the particulars of the proposed transfer and no such transfer shall take place unless and until the competent authority has signified its consent in writing.

(2) Where the competent authority has required a recovery plan or a finance scheme in terms of article 16 or 18, it shall refrain from issuing a certificate of solvency for the purposes of this Part of this Act for as long as it considers that the rights of policyholders or the contractual obligations of the reinsurance undertaking are prejudiced."

40. Article 38 of the principal Act shall be amended as follows:

Amendment of article 38 of the principal Act.

(a) in the marginal note thereto, for the words "Participation in an authorised company.", there shall be substituted the words "Changes in shareholding of an authorised undertaking.";

(b) in sub-article (1) thereof:

(i) in sub-paragraph (a) thereof, for the words "an authorised company;", there shall be substituted the words "an authorised insurance or reinsurance undertaking.";

(ii) in sub-paragraph (b) thereof, for the words "in an authorised company;", there shall be substituted the words "in an authorised insurance or reinsurance undertaking.";

(iii) in sub-paragraph (c) thereof:

(aa) for the words "in an authorised company", there shall be substituted the words "in

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an authorised insurance or reinsurance undertaking";

(bb) for the words "the authorised company would become its subsidiary,", there shall be substituted the words "the authorised insurance or reinsurance undertaking would become its subsidiary,";

(c) in sub-article (2) thereof:

(i) in paragraph (a) thereof, for the words "in an authorised company;", there shall be substituted the words "in an authorised insurance or reinsurance undertaking";

(ii) in paragraph (c) thereof, for the words "the authorised company", there shall be substituted the words "the authorised insurance or reinsurance undertaking";

(d) in sub-article (3) thereof, the words "within the meaning of the Financial Markets Act or on an equivalent market in a non-Member State or non-EEA State" shall be deleted;

(e) for sub-article (4) thereof, there shall be substituted the following:

"(4) Notwithstanding the provisions of sub-articles (1) and (2), it shall be the duty of an authorised insurance or reinsurance undertaking and of the directors thereof, to notify the competent authority forthwith upon becoming aware that any person intends to take any of the actions set out in these sub-articles.";

(f) in sub-article (5) thereof:

(i) for the words "any authorised company takes or decides", there shall be substituted the words "any authorised insurance or reinsurance undertaking takes or intends";

(ii) in sub-paragraph (a) thereof, for the words "authorised company", there shall be substituted the words "authorised insurance or reinsurance undertaking";

(iii) in sub-paragraph (c) thereof, for the words "authorised company", there shall be substituted the words "authorised insurance or reinsurance undertaking";

(iv) in sub-paragraph (d) thereof, for the words "authorised company", there shall be substituted the words "authorised insurance or reinsurance undertaking";

(v) in sub-paragraph (e) thereof, for the words "authorised company", there shall be substituted the words "authorised insurance or reinsurance undertaking";

(g) in sub-article (6) thereof, for the words "an authorised company", there shall be substituted the words "an authorised insurance or reinsurance undertaking";

(h) in sub-article (7) thereof:

(i) for the words "a company whose head office is in a country outside Malta", there shall be substituted the words "a third country insurance or reinsurance undertaking"; and

(ii) for the words "requiring such company", there shall be substituted the words, "requiring such undertaking".

41. Article 38A of the principal Act shall be amended as follows:

Amendment of article 38A of the principal Act.

(a) in sub-article (5) thereof, for the words "an interruption of such period.", there shall be substituted the words "an interruption of such assessment period.";

(b) in paragraph (b) of sub-article (6) thereof:

(i) sub-paragraphs (i), (ii), (iii), and (v) thereof, shall be deleted and sub-paragraphs (iv) and (vi) shall be renumbered as sub-paragraphs (i) and (ii) respectively;

(ii) in sub-paragraph (ii) thereof, as renumbered, for the words "credit institutions (recast).", there shall be substituted the words "credit institutions (recast).";

(iii) immediately after sub-paragraph (ii) thereof, as renumbered, there shall be added the following new sub-paragraphs (iii) and (iv):

"(iii) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the co-ordination of laws, regulations and administrative provisions relating to undertakings

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for collective investment in transferable securities (UCITS)(recast);

(iv) the Solvency II Directive.";

(c) in the Maltese text of sub-article (9) thereof, for the words "stipulati fir-regola dwar l-assigurazzjoni msemmija", there shall be substituted the words "stipulati fir-Regoli dwar l-Assigurazzjoni msemmijin";

(d) in sub-article (12) thereof, for the words "any other penalty which may be imposed under this Act, where a qualifying shareholding in an authorised company", there shall be substituted the words "any other measure which may be taken under this Act, where a qualifying shareholding in an authorised insurance or reinsurance undertaking"; and

(e) in sub-article (14) thereof, for the words "the same authorised company", there shall be substituted the words "the same authorised insurance or reinsurance undertaking".

Amendment of
article 38B of
the principal
Act.

42. Article 38B of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words "Co-operation with overseas regulatory authorities", there shall be substituted the words "Co-operation with European regulatory authorities or overseas regulatory authorities";

(b) in sub-article (1) thereof:

(i) for the words "with overseas regulatory authorities", there shall be substituted the words "with European regulatory authorities";

(ii) for the words "the assessment referred to in article 38A(2)", there shall be substituted the words "the assessment referred to in article 38A";

(iii) in paragraph (a) thereof, for the words "a credit institution, assurance undertaking, insurance undertaking", there shall be substituted the words "a credit institution, insurance undertaking";

(iv) in paragraph (b) thereof, for the words "a credit institution, assurance undertaking, insurance undertaking", there shall be substituted the words "a credit institution, insurance undertaking";

(v) in paragraph (c) thereof, for the words "a credit institution, assurance undertaking, insurance undertaking", there shall be substituted the words "a credit institution, insurance undertaking";

(c) in sub-article (2) thereof:

(i) for the words "in article 38A(2) to the overseas regulatory authority", there shall be substituted the words "in article 38A to the European regulatory authority";

(ii) for the words "communicate to the overseas regulatory authority", there shall be substituted the words "communicate to the European regulatory authority";

(iii) for the words "expressed by the overseas regulatory authority", there shall be substituted the words "expressed by the European regulatory authority";

(d) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(3) The procedure set out in sub-articles (1) and (2) shall apply *mutatis mutandis* where the proposed acquirer is authorised or established in a third country."

43. Article 38C of the principal Act shall be amended as follows:

Amendment of
article 38C of
the principal
Act.

(a) in sub-article (1) thereof:

(i) for the words "an authorised company may", there shall be substituted the words "an authorised undertaking may";

(ii) in paragraph (a) thereof, for the words "any other company," there shall be substituted the words "any other undertaking,";

(b) in sub-article (2) thereof:

(i) for the words "of an authorised company", there shall be substituted the words "of an authorised undertaking";

(ii) for the words "that such company", there shall be substituted the words "that such undertaking";

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(c) in the paragraph immediately following paragraph (c) of sub-article (3) thereof, for the words "or the authorised company concerned", there shall be substituted the words "or the authorised undertaking concerned";

(d) in sub-article (4) thereof:

(i) for the words "or any authorised company", there shall be substituted the words "or any authorised undertaking";

(ii) in paragraph (a) thereof, for the words "or authorised company", there shall be substituted the words "or authorised undertaking";

(iii) in paragraph (c) thereof, for the words "or authorised company", there shall be substituted the words "or authorised undertaking";

(iv) in paragraph (d) thereof, for the words "or authorised company", there shall be substituted the words "or authorised undertaking";

(v) in paragraph (e) thereof, for the words "or authorised company", there shall be substituted the words "or authorised undertaking".

Amendment of
article 39 of the
principal Act.

44. Article 39 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words "Companies ceasing", there shall be substituted the words "Undertakings ceasing";

(b) in sub-article (1) thereof:

(i) for the words "if an authorised company", there shall be substituted the words "if an authorised insurance undertaking";

(ii) for the words "such company shall,", there shall be substituted the words "such undertaking shall,";

(iii) for the words "and the company", there shall be substituted the words "and the authorised insurance undertaking";

(c) in sub-article (2) thereof:

(i) for the words "an authorised company", there shall be substituted the words "an authorised insurance undertaking";

(ii) in paragraph (a) thereof, for the words "the company", there shall be substituted the words "the undertaking";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(b) may require the undertaking to ascertain that its technical provisions meet the requirements of article 18E.";

(d) in sub-article (3) thereof:

(i) for the words "a company", there shall be substituted the words "an authorised insurance undertaking";

(ii) for the words "to the company" there shall be substituted the words "to the authorised insurance undertaking".

45. Article 40 of the principal Act shall be amended as follows: Amendment of article 40 of the principal Act.

(a) in the marginal note thereto, for the words "Companies carrying out", there shall be substituted the words "Undertakings carrying out"; and

(b) for the words "Every company issued", there shall be substituted the words "Every authorised insurance undertaking issued".

46. Immediately after article 40 of the principal Act, there shall be added the following new article 40A: Addition of new article 40A to the principal Act.

"Reinsurance undertakings ceasing and carrying out servicing or run-off of business of insurance. 40A. The provisions of articles 39 and 40 shall apply *mutatis mutandis* to undertakings whose business is restricted to reinsurance."

47. Article 41 of the principal Act shall be amended as follows: Amendment of article 41 of the principal Act.

(a) in the marginal note thereto, for the words

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"Dissolution and winding up of authorised companies", there shall be substituted the words "Reorganisation, dissolution and winding up of authorised undertakings.";

(b) in sub-article (1) thereof:

(i) for the words "this article, any company authorised to carry on the business of insurance shall - ", there shall be substituted the words "this article - ";

(ii) for paragraph (a) thereof, there shall be substituted the following:

"(a) in the case of an authorised insurance undertaking whose head office is in Malta:

(i) where any reorganisation measures are adopted in relation to the undertaking, such measures shall be applied in accordance with regulations made for the purposes of this article;

(ii) such undertaking shall, dissolve and consequentially wind up under and in accordance with regulations made under this article; and";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(b) in the case of an authorised third country insurance undertaking, shall dissolve and wind up under and in accordance with the provisions of the laws of the country where the head office of such undertaking is situated governing the dissolution and winding up of such undertakings.";

(c) in sub-article (2) thereof:

(i) for the words "authorised company", there shall be substituted the words "authorised insurance undertaking";

(ii) in paragraph (a) thereof:

(aa) for the words "in the case of a company whose head office is in Malta", there shall be

substituted the words "in the case of an undertaking whose head office is in Malta";

(bb) for the words "the assets of the company", there shall be substituted the words "the assets of the undertaking";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(b) in the case of an authorised third country insurance undertaking, prohibit the free disposal of the assets of the undertaking situated in Malta or in any other country if such assets relate to the undertaking's business in Malta,";

(d) in the paragraph immediately after paragraph (b), for the words "imposed on the company", there shall be substituted the words "imposed on the insurance undertaking";

(e) in sub-article (3) thereof:

(i) for the words "a company which", there shall be substituted the words "an authorised insurance undertaking which";

(ii) for the words "of the company attributable", there shall be substituted the words "of the undertaking attributable";

(f) in sub-article (5) thereof, for the words "not apply to such companies.", there shall be substituted the words "not apply to such undertakings.";

(g) in sub-article (6) thereof:

(i) for the words "of companies whose head office is in Malta,", there shall be substituted the words "of authorised insurance undertakings whose head office is in Malta,";

(ii) for the words "of companies whose head office is outside of Malta", there shall be substituted the words "of third country insurance undertakings";

(iii) for the words "of such companies or of branches thereof;", there shall be substituted the words "of such undertakings or of branches thereof";

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(h) immediately following sub-article (6) thereof, there shall be added the following new sub-articles (7) and (8):

"(7) Where an authorised insurance or reinsurance undertaking takes a decision to dissolve and wind up, it shall immediately notify, in writing, the competent authority of such decision before taking any further action to that effect.

(8) (a) An authorised reinsurance undertaking with its head office in Malta shall dissolve and wind up in accordance with the provisions of the Companies Act.

(b) An authorised third country reinsurance undertaking shall dissolve and wind up in accordance with the laws of the country where the head office of such undertaking is situated governing the dissolution and winding up of such undertakings."

Amendment of article 42 of the principal Act.

48. Article 42 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words "authorised companies with long term business.", there shall be substituted the words "an authorised undertaking carrying on long term business.";

(b) for sub-article (1) thereof, there shall be substituted the following:

"(1) An authorised undertaking whose head office is in Malta, carrying on long term business may not be dissolved and consequently wound up voluntarily without the consent of the competent authority.";

(c) sub-articles (2) and (3) shall be renumbered as sub-articles (3) and (4) respectively;

(d) immediately after sub-article (1) thereof, as amended, there shall be added the following new sub-article (2):

"(2) It shall be the duty of an authorised undertaking and the directors thereof, to notify the competent authority forthwith upon becoming aware of any measures to be taken in terms of sub-article (1).";

(e) in sub-article (3) thereof, as renumbered:

(i) for the words "of a company as aforesaid", there shall be substituted the words "of an undertaking as aforesaid";

(ii) in paragraph (a) thereof:

(aa) for the words "by the company", there shall be substituted the words "by the undertaking";

(bb) for the words "of the company attributable", there shall be substituted the words "of the undertaking attributable";

(iii) in paragraph (b) thereof:

(aa) for the words "of the company shall be available", there shall be substituted the words "of the undertaking shall be available";

(bb) for the words "of the company attributable", there shall be substituted the words "of the undertaking attributable";

(f) in sub-article (4) as renumbered, for the words "in either sub-article (2)(a) or (2)(b) exceeds the amount of the liabilities mentioned in either paragraph the restriction", there shall be substituted the words, "in either paragraph (a) or (b) of sub-article (3) exceeds the amount of the liabilities mentioned in either paragraph, the restriction".

49. Article 43 of the principal Act shall be amended as follows:

Amendment of article 43 of the principal Act.

(a) in sub-article (1) thereof, for the words "in the documentation provided", there shall be substituted the words "in the documentation or information provided";

(b) in sub-article (2) thereof:

(i) for the words "a company whose head office is in Malta authorised under this Act", there shall be substituted the words "an authorised insurance or reinsurance undertaking whose head office is in Malta";

(ii) in paragraph (a) thereof, for the words "constituting the company,", there shall be substituted the words "constituting the undertaking,";

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(iii) in paragraph (b) thereof:

(aa) for the words, "in the company", there shall be substituted the words, "in the undertaking"; and

(bb) in the Maltese text, for the words, "dik l-informazzjoni għandha wkoll tiġi stabbilita b'dik ir-regola.", there shall be substituted the words, "dik l-informazzjoni għandha wkoll tiġi stabbilita b'dawk ir-Regoli.";

(c) in sub-article (3) thereof:

(i) for the words "an authorised company", there shall be substituted the words "an authorised insurance or reinsurance undertaking"; and

(ii) for the words "the existence of close links within the meaning of article 8.", there shall be substituted the words "the existence of close links.".

Amendment of article 44 of the principal Act.

50. Article 44 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words "notice by authorised companies", there shall be substituted the words "notice by an authorised undertaking";

(b) in sub-article (1) thereof:

(i) for the words "No company authorised", there shall be substituted the words "No insurance undertaking authorised";

(ii) for the words "unless such company either - ", there shall be substituted the words "unless such undertaking either - "; and

(c) in paragraph (b) of sub-article (3) thereof, for the words "on the authorised company.", there shall be substituted the words "on the authorised undertaking.".

Amendment of article 45 of the principal Act.

51. In paragraph (a) of article 45 of the principal Act, for the words "entered into by a company", there shall be substituted the words "entered into by an insurance undertaking".

52. Article 47 of the principal Act shall be amended as follows: Amendment of article 47 of the principal Act.

(a) in the Maltese text of sub-article (2) thereof, for the words "Fin-nuqqas ta' xi regola dwar l-assigurazzjoni bħal dik," there shall be substituted the words "Fin-nuqqas ta' xi Regoli dwar l-Assigurazzjoni bħal dawk,"; and

(b) in sub-article (3) thereof, for the words "shall not apply to a company", there shall be substituted the words "shall not apply to an undertaking".

53. Article 48 of the principal Act shall be amended as follows: Amendment of article 48 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "No company authorised", there shall be substituted the words "No insurance undertaking authorised";

(ii) for the words "cause to be issued in Malta any advertisement or carry out or cause to be carried in Malta any promotional activity", there shall be substituted the words "cause to be issued any advertisement or carry out or cause to be carried any promotional activity";

(b) in the proviso to sub-article (1) thereof, for the words "in the case of a company", there shall be substituted the words "in the case of an undertaking";

(c) in sub-article (3) thereof, for the words "apply to a company", there shall be substituted the words "apply to an undertaking";

(d) in sub-article (4) thereof:

(i) for the words "Where a company", there shall be substituted the words "Where an undertaking";

(ii) for the words "directing the company - ", there shall be substituted the words "directing the undertaking - ";

(e) in sub-article (5) thereof:

(i) for the words "If a company", there shall be substituted the words "If an undertaking";

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(ii) for the words "which the company", there shall be substituted the words "which the undertaking"; and

(iii) for the words "the company concerned", there shall be substituted the words "the undertaking concerned,".

Amendment of article 48A of the principal Act.

54. Article 48A of the principal Act shall be amended as follows:

(a) for sub-article (1) thereof, there shall be substituted the following:

"(1) For the purposes of this article, "syndicate" means a member or group of members of Lloyd's underwriting business of insurance at Lloyd's through the agency of a managing agent to which a particular syndicate number is assigned by or under the authority of the Council of Lloyd's.";

(b) sub-articles (2), (3), (4) and (5) thereof shall be renumbered as sub-articles (3), (4), (5) and (6) respectively;

(c) immediately after sub-article (1) thereof, as amended, there shall be added the following new sub-article (2):

"(2) Where the members of Lloyd's carry on business of insurance in Malta, they shall carry on such business in exercise of a European Right.";

(d) in sub-article (3) thereof, as renumbered, the words "The representative shall be designated by a letter addressed to the competent authority by the chairman of Lloyd's.", shall be deleted;

(e) in sub-article (4) thereof, as renumbered, immediately after the words "the debts and obligations of Lloyd's or any of its members", there shall be added the words "and accordingly no execution of any precautionary or executive warrant against Lloyd's or any of its members shall be made against Lloyd's general representative.";

(f) in sub-article (5) thereof, as renumbered, for the words "in Malta as representative of those members; provided the act contains a statement", there shall be substituted the words "in Malta as representative of those members; provided the act commencing proceedings contains a statement";

(g) in sub-article (6) thereof, as renumbered, for the words "if they has been named", there shall be substituted the words "if they had been named"; and

(h) immediately after sub-article (6) thereof, as renumbered, there shall be added the following new sub-article:

"(7) Any judicial act filed by or against Lloyd's or any of its members in connection with a policy underwritten by them shall be served upon the Lloyd's general representative in Malta at its registered address in Malta."

55. For article 48B of the principal Act, there shall be substituted the following:

Amendment of article 48B of the principal Act.

"Appointment of insurance intermediaries

Cap. 487.

48B. Every authorised insurance or reinsurance undertaking shall utilise the services of insurance intermediaries which are:

(a) enrolled under the Insurance Intermediaries Act; or

(b) registered under article 3 of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, as amended from time to time; or

(c) registered or regulated to carry out such services in a non-Member State or non-EEA State in accordance with the provisions of the laws applicable in such State."

56. Immediately after article 48B of the principal Act, there shall be added the following new article 48C:

Addition of new article 48C to the principal Act.

"Policy conditions and scales of premiums.

48C. (1) An authorised undertaking shall not be required to submit to the competent authority for its prior approval or systematically notify the competent authority of:

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(a) general and special policy conditions, of scales of premiums, of the technical bases used in particular for calculating scales of premiums and technical provisions, or of forms and other printed documents which the authorised undertaking intends to use in its dealings with policyholders or ceding or retro-ceding undertakings;

(b) premium rates or proposed increases of premium rates, other than as part of general price-control systems.

(2) Notwithstanding the provisions of sub-articles (1), the competent authority may require:

(a) in respect of general business, the notification of the policy conditions, other documents and information referred to in sub-article (1) for the purpose of verifying compliance with the law applicable to contracts of insurance;

(b) in respect of long term business, the notification of the technical bases used in particular for calculating scales of premiums and technical provisions for the sole purpose of verifying compliance with any actuarial principles which may be established by this Act, regulations or Insurance Rules issued thereunder."

Amendment of article 49 of the principal Act.

57. In paragraph (a) of article 49 of the principal Act, for the words "against a company authorised to carry on business of insurance in Malta, remaining unpaid by reason of the insolvency of such company", there shall be substituted the words "against an insurance undertaking carrying on business of insurance in Malta, remaining unpaid by reason of the insolvency of such undertaking".

Amendment of article 50 of the principal Act.

58. Sub-article (2) of article 50 of the principal Act shall be amended as follows:

(a) for the words "All companies authorised under this Act to carry on business of insurance in Malta", there shall be substituted the words "All insurance undertakings, as prescribed by the regulations, which carry on business of insurance in Malta";

(b) for the words "kinds of authorised companies,", there shall be substituted the words "kinds of insurance

undertakings,".

59. Article 51 of the principal Act shall be amended as follows: Amendment of article 51 of the principal Act.

(a) in the first proviso thereof:

(i) for the words "by companies authorised to carry on long term business", there shall be substituted the words "by undertakings to carry on long term business";

(ii) for the words "by companies authorised to carry on general business", there shall be substituted the words "by undertakings to carry on general business"; and

(b) in the second proviso thereof, for the words "in the insolvent company and holds twenty *per centum* or more of the issued shares of such company.", there shall be substituted the words "in the insolvent undertaking and holds twenty *per centum* or more of the issued shares of such undertaking."

60. In paragraph (a) of article 52 of the principal Act, for the words "the company is struck off the register or such company", there shall be substituted the words "the undertaking is struck off the register or such undertaking". Amendment of article 52 of the principal Act.

61. For article 55 of the principal Act, there shall be substituted the following: Substitution of article 55 of the principal Act.

"Co-operation in supervisory duties and sharing of information.

55. (1) Notwithstanding the provisions of article 59, the competent authority shall co-operate and exchange information:

(a) with European regulatory authorities, and the European Commission for the purpose of facilitating the supervision of insurance and reinsurance within the European Union and the application of the Solvency II Directive;

(b) with overseas regulatory authorities for the purposes of the exercise of one or more of their regulatory functions;

(c) with authorities or bodies, or persons listed in sub-article (2).

(2) The competent authority shall co-operate and exchange information with:

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(a) authorities responsible for the supervision of credit institutions and other financial organisations and the authorities responsible for the supervision of financial markets;

(b) bodies involved in the liquidation and insolvency of insurance or reinsurance undertakings and in other similar procedures;

(c) the authorities responsible for overseeing the bodies involved in the liquidation and insolvency of insurance undertakings, reinsurance undertakings and other similar procedures;

(d) persons responsible for carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings and other financial institutions;

(e) bodies which administer compulsory winding-up proceedings or guarantee funds, where that information is necessary for the performance of their duties;

(f) the authorities or bodies responsible for the detection and investigation of breaches of company law;

(g) the authorities responsible for overseeing the persons charged with carrying out statutory audits of the accounts of insurance undertakings, reinsurance undertakings, credit institutions, investment firms and other financial institutions;

(h) actuaries appointed by insurance or reinsurance undertakings carrying out actuarial tasks in relation to those undertakings and the bodies responsible for overseeing such actuaries.

(3) For the purposes of the exchanges of information referred to in paragraphs (c), (g) and (h) of sub-article (2), the following conditions, as a minimum, shall be met by the recipient of such information:

(a) the information required must be for the purpose of carrying out the overseeing or supervision of the functions or activities of such authorities, bodies or persons;

(b) the information received by such authorities, bodies or persons shall be subject to the duty of professional secrecy;

(c) where the information in the possession of the competent authority originates from a European regulatory authority or an overseas regulatory authority, it shall not be disclosed without the express consent of the European regulatory authority or the overseas regulatory authority from which it originates and, where appropriate, solely for the purposes for which that authority gave its consent.

(4) For the purposes of exchanges of information referred to in paragraph (f) of sub-article (2), the competent authority shall ensure that, as a minimum, the following conditions shall be met by the recipient of such information:

(a) the information exchanged shall be intended for the purpose of the detection and investigation of breaches of company law;

(b) the information received shall be subject to the duty of professional secrecy;

(c) where the information in the possession of the competent authority originates from a European regulatory authority or an overseas regulatory authority, it shall not be disclosed without the express agreement of the European regulatory authority or the overseas regulatory authority from which it originates and, where appropriate, solely for the purposes for which the authority gave its agreement;

(d) such recipient shall provide the name and responsibilities of the persons to whom such information shall be sent:

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Provided that, where the authorities or bodies perform their tasks of detection or investigation with the assistance of persons appointed for that purpose, in view of their specific competence, and such persons are not employed with such bodies or persons, such information may only be exchanged with such persons if the conditions set out in this sub-article are met.

(5) The competent authority shall communicate to the Commission and to other Member States or EEA States the names of the authorities, persons or bodies which may receive information in terms of this article.

(6) (a) Without prejudice to the provisions of this article and article 59, the competent authority may transmit information intended for the performance of their tasks to the following:

(i) the Central Bank of Malta, the central banks of the European System of Central Banks, (including the European Central Bank) and other bodies with a similar function in their capacity as monetary authorities where this information is relevant to their respective statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system;

(ii) where appropriate, other national public authorities responsible for overseeing payment systems; and

(iii) the European Systemic Risk Board, where that information is relevant to carrying out its tasks;

(b) In an emergency situation, including a situation as defined in Article 18 of Regulation (EU) No 1094/2010, the competent authority shall communicate, without delay, information to the central banks of the European System of Central Banks (including the European Central Bank) where that information is relevant to their statutory tasks, including the conduct of monetary policy and related liquidity provision, oversight of payments, clearing and securities settlement systems and safeguarding the stability of the financial system, and to the European Systemic Risk Board, where such information is relevant to its tasks.

(c) Such authorities or bodies may also communicate to the competent authority such information as they may need for the purposes of article 59(4).

(7) Without prejudice to article 59, the competent authority may exchange information with other departments of Member States central government administrations responsible for legislation on the supervision of credit institutions, financial institutions, investment services and insurance and reinsurance undertakings and to inspectors acting on behalf of those departments provided that:

(a) such disclosures may be made only where necessary for reasons of prudential control;

(b) persons having access to such information shall be subject to professional secrecy.

(8) Without prejudice to the foregoing provision of this article, the competent authority may exercise the following powers at the request of, or for the purposes of, assisting a European regulatory authority or an overseas regulatory authority:

(a) the power to impose, revoke or vary conditions on the grant of an authorisation pursuant to the provisions of article 7;

(b) the power to suspend or revoke an authorisation under article 26;

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(c) the power to take any action under article 28, in lieu of or in addition to any suspension or revocation of an authorisation;

(d) the power to require information and documentation under article 29;

(e) the power to appoint inspectors under article 30;

(f) the power of entry to obtain information and documentation under article 31;

(g) the power to issue a directive under article 31A;

(h) the power to communicate to the European regulatory authority information in its possession, whether such information is the result of any of the above powers or otherwise; and

(i) the power to prohibit the free disposal of the undertaking's assets located in Malta in the circumstances referred to in Articles 137 to 139 and Article 144(2) of the Solvency II Directive; the undertaking's home Member State shall designate the assets to be covered by such measures.

(9) There shall be meetings between an authorised insurance or reinsurance undertaking, its approved auditors, and, in the case of an undertaking authorised to carry on long term business, its approved actuary and the competent authority on a bilateral or a multilateral basis as circumstances may warrant. Such meetings may be called by any of the parties, and shall in each case be chaired by the competent authority."

Addition of new articles 55A and 55B to the principal Act.

62. Immediately after article 55 of the principal Act, there shall be inserted the following new articles:

"Co-operation with EIOPA.

55A. (1) The competent authority shall cooperate with EIOPA for the purposes of the Solvency II Directive in accordance with Regulation (EU) No 1094/2010.

(2) The competent authority shall provide EIOPA with all information necessary to carry out its duties in accordance with Regulation (EU) No 1094/2010.

Co-operation
with third
countries.

55B. (1) The competent authority may enter into co-operation agreements with overseas regulatory authorities or with such authorities or bodies as defined in article 55(2), in countries that are not Member States or EEA States only if the information disclosed is subject to the guarantees of professional secrecy at least equivalent to those required under articles 55 and 59. Such exchange of information must be intended for the performance of the supervisory task of such overseas regulatory authorities, authorities or bodies.

(2) Where the information to be disclosed by the competent authority to the authorities or bodies referred to in sub-article (1), had originated from a European regulatory authority, it may only be disclosed to an overseas regulatory authority with the express agreement of such European regulatory authority which had transmitted it and, where appropriate, solely for the purposes for which that authority had given its agreement."

63. Article 56 of the principal Act shall be amended as follows:

Amendment of
article 56 of the
principal Act.

(a) in paragraph (a) of sub-article (1) thereof, for the words "an actuary of a company;", there shall be substituted the words "an actuary of an undertaking;"

(b) in sub-article (2) thereof, for the words "an authorised company,", there shall be substituted the words "an authorised undertaking,"

(c) in sub-article (3) thereof, for the words "the company in relation to", there shall be substituted the words "the undertaking in relation to"; and

(d) in sub-article (4) thereof, for the words "and authorised companies, make rules", there shall be substituted the words "and authorised undertakings, make rules".

64. In the proviso to sub-article (4) of article 57 of the principal Act, for the words "made under sub-article (13) of the said

Amendment of
article 57 of the
principal Act.

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article 21", there shall be substituted the words "made under the said article 21".

Amendment of
article 58 of the
principal Act.

65. Article 58 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof:

(i) for the words "any person who is aggrieved by a decision of the competent authority", there shall be substituted the words "an appeal shall lie to the Financial Services Tribunal with respect to -";

(ii) paragraphs (a), (b), (c), (d), (e), and (f) thereof, shall be renumbered as paragraphs (b), (c), (d), (g), (h) and (i) respectively;

(iii) immediately before paragraph (b) thereof, as renumbered, there shall be added the following new paragraph:

"(a) any failure to inform an applicant within the term provided in sub-article (9) or (10) of article 7;"

(iv) in paragraph (b) thereof, as renumbered, for the words "to refuse", there shall be substituted the words "any refusal to";

(v) in paragraph (c) thereof, as renumbered, for the words "to impose any condition", there shall be substituted the words "any condition imposed";

(vi) in paragraph (d) thereof, as renumbered, for the words "to suspend or revoke", there shall be substituted the words "any suspension or revocation of";

(vii) immediately after paragraph (d) thereof, as renumbered, there shall be added the following new paragraphs:

"(e) any one or more measures taken under article 28;

(f) any directive given under article 31A;"

(viii) in paragraph (g) thereof, as renumbered, for the words "to refuse" there shall be substituted the words

"any refusal of";

(ix) in paragraph (h) thereof, as renumbered, for the words "to issue any notice or make any order", there shall be substituted the words "any notice issued or any order made";

(x) in paragraph (i) thereof, as renumbered, for the words "to impose an administrative penalty", there shall be substituted the words "any administrative penalty imposed";

(b) for sub-article (2) thereof, there shall be substituted the following:

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"(2) The provisions of article 21 of the Malta Financial Services Authority Act shall apply *mutatis mutandis* to appeals that may be brought before the Tribunal under this article."; and

(c) sub-article (3) thereof shall be deleted.

66. Article 59 of the principal Act shall be amended as follows: Amendment of article 59 of the principal Act.

(a) sub-article (1) thereof shall be deleted;

(b) sub-article (2) thereof shall be renumbered as sub-article (1);

(c) in sub-article (1) thereof, as renumbered:

(i) for the words "agents, as well as by inspectors, auditors and experts engaged by the competent authority", there shall be substituted the words "agents, including former officers, employees or agents, as well as by inspectors, auditors and experts acting on behalf of the competent authority";

(ii) for the words "by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases:", there shall be substituted the words "by the duty of professional secrecy.";

(iii) paragraphs (a) to (i) thereof shall be deleted;

(d) sub-articles (3) to (6) thereof shall be deleted; and

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(e) immediately after sub-article (1) thereof, as renumbered, there shall be added the following new sub-articles (2) to (6):

"(2) Without prejudice to cases covered by criminal law, the persons referred to in sub-article (1) shall not disclose information obtained from an authorised insurance or reinsurance undertaking unless such disclosure of information be done in summary or aggregate form, so as not to enable the identity of the such undertaking, to whom such information relates, to be ascertained:

Provided that, such persons may disclose confidential information in civil or commercial proceedings where an authorised insurance or reinsurance undertaking has been declared insolvent or is being compulsorily wound up, as long as such information does not concern third parties involved in attempts to rescue that undertaking.

(3) Nothing in this Act shall authorise the competent authority to enquire or cause an enquiry to be made in an authorised insurance or reinsurance undertaking into the affairs of any individual policyholder of the authorised insurance or reinsurance undertaking except for the purpose of ensuring compliance with any of the provisions of this or of any other Act.

(4) Where the competent authority receives confidential information from a European regulatory authority under this article and article 55 it may only use such confidential information in the course of its duties and for the following purposes:

(a) to check that the conditions governing the carrying on of business of insurance or reinsurance are met and to facilitate the monitoring of the carrying on of such business especially with regard to the monitoring of the technical provisions, the Solvency Capital Requirement, the Minimum Capital Requirement and the system of governance;

(b) to impose penalties or adopt other administrative measures and to consider representations received in their regard;

(c) in appeals against decisions of the competent authority under article 58;

(d) in judicial proceedings under the Solvency II Directive.

Cap. 373. (5) When an officer or an employee of an authorised insurance or reinsurance undertaking has reason to believe that a transaction or a proposed transaction could involve money laundering or the funding of terrorism, he shall act in compliance with the reporting and other obligations set out in the regulations made under article 12 of the Prevention of Money Laundering Act and any procedures and guidance issued thereunder, and such disclosure shall not constitute a breach of confidentiality.

(6) In this article, any reference to agents has the meaning assigned to it in article 30(10)."

67. Article 60 of the principal Act shall be amended as follows:

Amendment of article 60 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "or potential policyholders", there shall be substituted the words "potential policyholders, insureds, claimants or other related parties";

(ii) in paragraph (a) thereof, for the words "amongst companies", there shall be substituted the words "amongst insurance undertakings"; and

(b) for sub-article (2) thereof, there shall be substituted the following:

Cap. 440 "(2) Notwithstanding the provisions of the Data Protection Act, the collection, use, storage and transmission of information for the purposes of the exchanging of personal data referred to in sub-article (1) is deemed to be a necessary measure for the prevention, detection or suppression of insurance fraud."

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Amendment of
article 61 of the
principal Act.

68. Article 61 of the principal Act shall be amended as follows:

(a) for the words "or any regulations made", there shall be substituted the words "or any regulations or Insurance Rules made";

(b) in paragraph (e) thereof, for the words "an officer, or a clerk of that body or to or on the person designated by that body under article 11(1)(d)(i) or article 48A(2), as the case may be;", there shall be substituted the words "an officer, secretary, or a clerk of that body or to any person designated by that body for that purpose as the case may be; or"; and

(c) immediately after paragraph (e) thereof, there shall be added the following new paragraph (f):

"(f) in the case of a third country insurance or reinsurance undertaking or Lloyd's, it has been given or served to the person designated under article 11(1)(b)(i) or article 48A(3), respectively;"

Amendment of
article 62 of the
principal Act.

69. Article 62 of the principal Act shall be amended as follows:

(a) in the marginal note thereto, for the words "Continuance of companies carrying on business of insurance, insurance manager or insurance broker.", there shall be substituted the words "Continuance of undertakings carrying on business of insurance or companies enrolled as insurance manager or insurance broker.";

(b) in sub-article (1) thereof:

(i) in paragraph (a) thereof:

(aa) for the words "as a company carrying on business of insurance,", there shall be substituted the words "as an undertaking carrying on business of insurance or a company enrolled to act as an insurance manager or insurance broker under the Insurance Intermediaries Act,";

(bb) for the words "a company carrying on business of insurance under the Companies Act and under this Act; and", there shall be substituted the words "authorised under this Act or enrolled under

the Insurance Intermediaries Act; and";

(ii) in paragraph (b) thereof, for the words "a company carrying on business of insurance authorised under this Act", there shall be substituted the words "an undertaking carrying on business of insurance authorised under this Act or a company enrolled to act as insurance manager or insurance broker under the Insurance Intermediaries Act"; and

(iii) in the paragraph immediately following paragraph (b) thereof, for the words "such bodies corporate or companies carrying on business of insurance,", there shall be substituted the words "such bodies, undertakings or companies,";

(c) in sub-article (2) thereof:

(i) in paragraph (a) thereof, for the words "such body or company", there shall be substituted the words "such body, undertaking or company";

(ii) in the paragraph immediately following paragraph (b) thereof:

(aa) for the words "continuance of a company carrying on business of insurance as a body corporate under a foreign jurisdiction shall", there shall be substituted the words "continuance of an undertaking or company as stated in paragraph (b) of sub-article (1), as a body corporate under a foreign jurisdiction, shall";

(bb) for sub-paragraph (ii) thereof, there shall be substituted the following:

"(ii) such continuance (or similar process) will operate the continuation of the corporate existence of the undertaking or company as, or its conversion into, a body corporate which will continue to retain or will succeed to all assets, rights, and liabilities of such undertaking or company.";

(d) sub-article (3) thereof, shall be substituted by the following:

"(3) In this article, reference to the "company"

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shall include reference to a partnership *en commandite* or to a similar or equivalent body corporate the capital of which is divided into shares."; and

(e) in sub-article (4) thereof, for the words "with respect to continuance of companies.", there shall be substituted the words "with respect to continuance of undertakings or companies."

Amendment of article 63 of the principal Act.

70. Article 63 of the principal Act shall be deleted.

Amendment of article 64 of the principal Act.

71. Article 64 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof:

(i) in paragraph (b) thereof, for the words "any company authorised", there shall be substituted the words "any undertaking authorised";

(ii) paragraphs (d) and (e) thereof shall be deleted;

(iii) paragraphs (f), (g), (h) and (i) thereof, shall be renumbered as paragraphs (d), (e), (f) and (g) respectively;

(b) sub-article (3) thereof shall be deleted;

(c) sub-articles (4), (5), and (6) thereof shall be renumbered as sub-articles (3), (4) and (5), respectively;

(d) for sub-article (3) thereof, as renumbered, there shall be substituted the following:

"(3) The Minister may, after consultation with the competent authority, make regulations providing for the determination and regulation of any matter which relates to finite reinsurance contracts or finite reinsurance activities, including the identification, measurement, monitoring, management, control and reporting of risks arising from such contracts or activities.";

(e) in sub-article (4) thereof, as renumbered, for the words "within the meaning of Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC,

92/49/EEC, as well as Directives 98/78/EC and 2002/83/EC", there shall be substituted the words "within the meaning of the Solvency II Directive";

(f) in sub-article (5) thereof, as renumbered, for the words "exempting any person or any class or classes", there shall be substituted the words "exempting any person, activity or operation or any class or classes";

(g) immediately after sub-article (5) thereof, as renumbered, there shall be added the following new sub-article (6):

"(6) The Minister may, after consultation with the competent authority, make regulations applicable to captive insurance undertakings and captive reinsurance undertakings, exempting from and modifying any of the provisions of this Act or of any regulations made thereunder.";

(h) sub-article (8) thereof shall be deleted;

(i) immediately after sub-article (7) thereof, there shall be added the following new sub-article (8):

"(8) The Minister may, after consultation with the competent authority, make regulations determining the class or classes of long term business and the class or classes or part classes of general business that may be effected and carried out under this Act."; and

(j) in sub-article (9) thereof, for the words "Regulations made under this article may make", there shall be substituted the words, "Regulations made under this Act may make".

72. Article 65 of the principal Act shall be deleted.

Amendment of article 65 of the principal Act.

73. Article 66 of the principal Act shall be amended as follows:

Amendment of article 66 of the principal Act.

(a) for the words "a function under this Act or any regulations", there shall be substituted the words "a function under this Act, regulations or Insurance Rules"; and

(b) for the words "of any functions under this Act or any regulations", there shall be substituted the words "of any functions under this Act or any regulations or Insurance Rules".

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Amendment of
article 67 of the
principal Act.

74. Article 67 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof:

(i) in paragraph (a) thereof, for the words "for the purpose of obtaining the issue of an authorisation under this Act or any regulations made thereunder, furnishes", there shall be substituted the words "for the purpose of obtaining the issue of an authorisation under this Act or pursuant to any of the provisions of this Act or any regulations or Insurance Rules made thereunder, furnishes";

(ii) in paragraph (c) thereof, for the words "or any regulations made thereunder; or", there shall be substituted the words "or any regulations or Insurance Rules made thereunder; or";

(iii) paragraphs (d) and (e) thereof shall be renumbered as paragraphs (e) and (f) respectively;

(iv) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

"(d) who is knowingly a party to the carrying on of the business of insurance with a fraudulent intent or for a fraudulent purpose; or";

(v) in paragraph (f) thereof, as renumbered:

(aa) for the words "or an employee of a company -", there shall be substituted the words "or an employee of an undertaking -";

(bb) for sub-paragraph (i) thereof, there shall be substituted the following sub-paragraph:

"(i) fails to take all reasonable steps to secure compliance by the undertaking with any of the provisions of this Act or of any regulations, or any Insurance Rules made thereunder, or any authorisation or permit issued thereunder; or";

(b) in sub-article (3) thereof:

(i) for the words, "of sub-article (2)(e)", there

shall be substituted the words, "of sub-article (2)(f),";

(ii) for the words, "to a company,", there shall be substituted the words, "to an undertaking,";

(iii) for the words, "for the company", there shall be substituted the words, "for the undertaking";

(c) in sub-article (5) thereof:

(i) in paragraph (a) thereof, for the words "greater than two years;", there shall be substituted the words "greater than four years;"; and

(ii) in paragraph (b) thereof, for the words "shall not provide for a fine (*multa*) of less than two hundred and thirty euro (€230) or greater than one hundred and sixteen thousand euro (€116,000).", there shall be substituted the words, "shall not provide for a fine (*multa*) of less than two hundred and thirty euro (€230) or greater than four hundred and sixty-six thousand euro (€466,000).".

75. The Second Schedule to the principal Act shall be amended as follows:

Amendment of
the Second
Schedule to the
principal Act.

(a) paragraph (1) thereof shall be deleted;

(b) in paragraph (2) thereof, for the words "2. Classes of Long Term Business", there shall be substituted the words "2. Classes of Long Term Business";

(c) in class I, "Life and annuity", under the heading "Description":

(i) for the words "Effecting and carrying out contracts", there shall be substituted the words "Contracts";

(ii) for the words "contracts within class III of this Schedule", there shall be substituted the words "contracts within classes II and III of this Schedule";

(d) in class II, "Marriage and Birth", under the heading "Description":

(i) for the words "Effecting and carrying out contracts", there shall be substituted the words "Contracts";

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(ii) for the words "for a period as may be specified by the insurance rule.", there shall be substituted the words "for a period of more than one year.";

(e) in class III, "Linked long term", under the heading "Description", for the words "Effecting and carrying out contracts", there shall be substituted the word "Contracts";

(f) in class IV, "Permanent Health", under the heading "Description":

(i) for the words "Effecting and carrying out contracts", there shall be substituted the word "Contracts";

(ii) in paragraph (a) thereof, for the words "for a period as may be specified by the insurance rule,", there shall be substituted the words "for a period of not less than five years,";

(g) for class V "Tontines", under the heading "Description", for the words "Effecting and carrying out tontines" there shall be substituted the words "Contracts of insurance providing for operations whereby associations of subscribers are to be set up with a view to capitalising their contributions jointly and subsequently distributing the assets thus accumulated among the survivors or among the beneficiaries of the deceased.";

(h) for class VI, "Capital redemption", under the heading "Description", for the words "Effecting and carrying out capital redemption contracts" there shall be substituted the words "Contracts of insurance providing for capital redemption operations based on actuarial calculation whereby, in return for single or periodic payments agreed in advance, commitments of specified duration and amount are undertaken.";

(i) in class VII, "Pension fund management", under the heading "Description":

(i) the words "Effecting and carrying out -", shall be deleted;

(ii) for paragraph (a) thereof, there shall be substituted the following new paragraph:

"(a) Contracts to manage the investments of pension funds, and in particular the assets representing the reserves of bodies that effect

payments on death or survival or in the event of discontinuance or curtailment of activity; or"; and

(iii) in paragraph (b) thereof, for the words "contracts", there shall be substituted the word "Contracts";

(j) for class VIII, "Collective insurance", under the heading "Description", for the words "Effecting and carrying out contracts of a kind as may be specified by the insurance rule" there shall be substituted the words "Contracts of a kind referred to in Article 2(3)(b)(v) of the Solvency II Directive."; and

(k) for class IX, "Social insurance", under the heading "Description", for the words "Effecting and carrying out contracts of a kind as may be specified by the insurance rule" there shall be substituted the words "Contracts of a kind referred to in Article 2(3)(c) of the Solvency II Directive.".

76. The Third Schedule to the principal Act, shall be amended as follows:

Amendment of
the Third
Schedule to the
principal Act.

(a) in Part I thereof:

(i) immediately preceding the table thereof, there shall be added the words "Classification of risks according to classes of insurance";

(ii) in class 1, "Accident", in paragraph (c) thereof, for the words "combinations of the two;", there shall be substituted the words "combination of the two;";

(iii) in class 18, "Assistance", in paragraph (a) thereof, for the words "away from their permanent residence;", there shall be substituted the words "away from their habitual residence;";

(b) in Part II thereof:

(i) immediately preceding the table thereof, there shall be added the words "The following names shall be given to authorisations which simultaneously cover the following classes:"; and

(ii) for the heading "Composition", in the third column of the table thereof, there shall be substituted the words "Classes of Business".

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General amendment of the principal Act.

77. For the words "an insurance rule", "any insurance rule", "the insurance rule" and "such insurance rule", wherever they appear in the Act, there shall be substituted the words "Insurance Rules".

PART II
AMENDMENTS TO THE INSURANCE
INTERMEDIARIES ACT, CAP. 487

Amendment of the Insurance Intermediaries Act. Cap. 487.

78. This Part amends and shall be read and construed as one with the Insurance Intermediaries Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 2 of the principal Act.

79. Sub-article (1) of article 2 of the principal Act shall be amended as follows:

(a) for the definition "advertisement", there shall be substituted the following new definition:

" "advertisement", in relation to insurance intermediaries activities, means any form or medium of advertising, 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, 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;"

(b) for the definition "authorised company", there shall be substituted the following new definition:

Cap. 403. " "authorised undertaking" means an authorised insurance undertaking or an authorised reinsurance undertaking which has received authorisation pursuant to article 7 of the Insurance Business Act or any person deemed authorised under the said Act, to carry on business of insurance and includes a company enrolled under this Act to act as an insurance agent of the undertaking, as well as a European insurance undertaking or a European reinsurance undertaking having its head office in a Member State or an EEA state establishing a branch or providing services in Malta in exercise of a European right;"

(c) in the definition "body corporate", for the words "distinct from that of its members;", there shall be substituted the words, "distinct from that of its members and also includes a foreign corporation;"

(d) immediately after the definition "class", there shall be added the following new definition:

" "close links" means a situation in which two or more natural or legal persons are linked by control or participation, or a situation in which two or more natural or legal persons are permanently linked to one and the same person by a control relationship;"

(e) for the definition "control", there shall be substituted the following new definition:

" "control", means the relationship between a parent undertaking and a subsidiary undertaking, as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, or a similar relationship between any natural or legal person and an undertaking;"

(f) in the definition "controller", for the words

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"exercises control of the body corporate;", there shall be substituted the words "exercises the power to determine the financial and operating policies of the body corporate;"

(g) for the definition "European insurance undertaking", there shall be substituted the following:

" "European insurance undertaking" means an undertaking having its head office in a Member State or an EEA State, other than Malta, pursuing the activity of direct insurance within the meaning of Article 2 of the Solvency II Directive, which has received authorisation in accordance with Article 14 of the Solvency II Directive;"

(h) immediately after the definition "European insurance undertaking", there shall be added the following new definition:

" "European reinsurance undertaking" means an undertaking having its head office in a Member State or an EEA State, other than Malta, pursuing business restricted to reinsurance within the meaning of Article 2 of the Solvency II Directive which has received authorisation in accordance with Article 14 of the Solvency II Directive;"

(i) for the definition "insurance intermediaries rule", there shall be substituted the following:

" "insurance intermediaries rule" means a rule in respect of insurance intermediaries activities issued by the competent authority under various articles of this Act and under any regulations issued thereunder;"

(j) immediately after the definition "own funds", there shall be added the following new definition:

" "participation" means the ownership, direct or by way of control, of 20% or more of the voting rights or capital of an undertaking;"

(k) immediately after the definition "registered", there shall be added the following new definition:

" "regulated market" means either of the following:

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(a) in the case of a market situated in Malta, a market authorised in terms of the Financial Markets Act;

(b) in the case of a market situated in a Member State or an EEA State, other than Malta, a regulated market as defined in Article 4(1)(14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directive 85/611/EEC and 96/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, as amended from time to time; or

(c) in the case of a market situated in a non-Member State or non-EEA State, a financial market which fulfils the following conditions:

(i) it is recognised by the competent authority and fulfils requirements comparable to those laid down in Directive 2004/39/EC; and

(ii) the financial instruments dealt in on that market are of a quality comparable to that of the instruments dealt in on the regulated market or markets in Malta;"

(l) immediately after the definition "Schedule", there shall be added the following new definition:

" "Solvency II Directive" means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), as amended from time to time, and includes any delegated acts and any technical standards that have been or may be issued thereunder;"

(m) immediately after the new definition "Solvency II

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Directive", there shall be added the following new definition:

Cap. 403. " "third country insurance undertaking" means an undertaking, other than a European insurance undertaking, which would require authorisation as an authorised insurance undertaking pursuant to article 7 of the Insurance Business Act, as if its head office were situated in Malta;

(n) immediately after the new definition "third country insurance undertaking", there shall be added the following new definition:

Cap. 403. "third country reinsurance undertaking" means an undertaking, other than a European reinsurance undertaking, which would require authorisation as an authorised reinsurance undertaking in accordance with article 7 of the Insurance Business Act, as if its head office were situated in Malta;"

(o) in the definition "tied insurance intermediaries activities", for the words "under the responsibility of an authorised company", there shall be substituted the words "under the responsibility of an authorised undertaking";

(p) for the definition "Tied Insurance Intermediaries Company Register", there shall be substituted the following:

" "Tied Insurance Intermediaries Company Register" in relation to an authorised undertaking means the Tied Insurance Intermediaries Company Register established and maintained by an authorised undertaking under article 34(1);".

Amendment of article 4 of the principal Act.

80. Article 4 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, immediately after the words "revoke such insurance intermediaries rules.", there shall be added the words " revoke such insurance intermediaries rules and any amendment or revocation thereof shall be officially communicated to the persons concerned.";

(b) for sub-article (3) thereof, there shall be substituted the following:

"(3) Insurance intermediaries rules shall be

binding on insurance intermediaries and others as may be specified therein."; and

(c) in paragraph (d) of sub-article (4) thereof, for the words "between insurance intermediaries and insurance companies", there shall be substituted the words "between insurance intermediaries and authorised insurance undertakings".

81. Article 10 of the principal Act shall be amended as follows: Amendment of article 10 of the principal Act.

(a) sub-article (3) thereof shall be deleted; and

(b) sub-article (4) thereof shall be renumbered as sub-article (3).

82. Article 31 of the principal Act shall be amended as follows: Amendment of article 31 of the principal Act.

(a) in sub-article (1) thereof, for the words "shall be taken out with an authorised company.", there shall be substituted the words "shall be taken out with an authorised undertaking.";

(b) sub-article (2) thereof shall be deleted;

(c) sub-article (3) thereof shall be renumbered as sub-article (2):

(d) in sub-article (2) thereof, as renumbered:

(i) for the words "Save as otherwise provided in sub-article (2), the provisions of this article shall not apply to - ", there shall be substituted the words "The provisions of this article shall not apply to - " ; and

(ii) for paragraph (b) thereof, there shall be substituted the following:

"(b) large risks as defined in Article 13 of the Solvency II Directive."

83. Article 32 of the principal Act shall be amended as follows: Amendment of article 32 of the principal Act.

(a) in sub-article (1) thereof, for the words "with any authorised company.", there shall be substituted the words "with any authorised undertaking.";

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(b) in sub-article (7) thereof:

(i) for the words "an agreement between an authorised company and a person enrolled in the Brokers List", there shall be substituted the words "an agreement between an authorised undertaking and a person enrolled in the Brokers List"; and

(ii) for the words "on behalf of the authorised company;", there shall be substituted the words "on behalf of the authorised undertaking;".

Amendment of article 34 of the principal Act.

84. Article 34 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "every authorised company desirous of appointing", there shall be substituted the words "every authorised undertaking desirous of appointing"; and

(b) in sub-article (2) thereof, for the words "every authorised company shall determine", there shall be substituted the words "every authorised undertaking shall determine".

Amendment of article 35 of the principal Act.

85. In sub-article (1) of article 35 of the principal Act, for the words "registered by an authorised company in the Tied Insurance Intermediaries Company Register of the company if the company is satisfied", there shall be substituted the words "registered by an authorised undertaking in the Tied Insurance Intermediaries Company Register of such undertaking if it is satisfied".

Amendment of article 36 of the principal Act.

86. Article 36 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof:

(i) for the words "the duty of an authorised company", there shall be substituted the words "the duty of an authorised undertaking"; and

(ii) for the words "Tied Insurance Intermediaries Company Register of the company under article 37.", there shall be substituted the words "Tied Insurance Intermediaries Company Register established and maintained by it under article 37.";

(b) in sub-article (3) thereof:

(i) for the words "an authorised company shall furnish", there shall be substituted the words "an authorised undertaking shall furnish"; and

(ii) for the words "issued to the company by the competent authority.", there shall be substituted the words "issued to the authorised undertaking by the competent authority."

87. Article 37 of the principal Act shall be amended as follows: Amendment of article 37 of the principal Act.

(a) in sub-article (1) thereof:

(i) for the words "every authorised company desirous of appointing a person", there shall be substituted the words "every authorised undertaking desirous of appointing a person";

(ii) for the words "Tied Insurance Intermediaries Company Register of the company", there shall be substituted the words "Tied Insurance Intermediaries Company Register of the authorised undertaking";

(iii) in the first proviso to sub-article (1) thereof:

(aa) for the words "a company is prohibited from appointing and registering in the Tied Insurance Intermediaries Company Register of the company", there shall be substituted the words "an undertaking is prohibited from appointing and registering in its Tied Insurance Intermediaries Company Register"; and

(bb) in paragraph (c) thereof, for the words "a company authorised under the Insurance Business Act", there shall be substituted the words, "an undertaking authorised under the Insurance Business Act";

(iv) in the second proviso to sub-article (1) thereof, for the words, "a company is prohibited from", there shall be substituted the words "an undertaking is prohibited from";

(b) in sub-article (2) thereof, for the words "Where an authorised company appoints and registers in the Tied Insurance Intermediaries Company Register of the company", there shall

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be substituted the words "Where an authorised undertaking appoints and registers in its Tied Insurance Intermediaries Company Register";

(c) in sub-article (3) thereof:

(i) for the words "Tied Insurance Intermediaries Company Register of an authorised company", there shall be substituted the words "Tied Insurance Intermediaries Company Register of an authorised undertaking"; and

(ii) for the words "on behalf of that company.", there shall be substituted the words "on behalf of such undertaking."

(d) in sub-article (4) thereof:

(i) for the words "more than one company authorised to carry on long term business,", there shall be substituted the words "more than one undertaking, authorised to carry on long term business,";

(ii) for the words "carried on by the companies concerned", there shall be substituted the words "carried on by the undertakings concerned"; and

(iii) for the words "Tied Insurance Intermediaries Company Register of one of the companies concerned.", there shall be substituted the words "Tied Insurance Intermediaries Company Register of one of the undertakings concerned.";

(e) in sub-article (5) thereof:

(i) for the words "more than one company authorised to", there shall be substituted the words "more than one undertaking authorised to";

(ii) for the words "carried on by the companies concerned", there shall be substituted the words "carried on by the undertakings concerned"; and

(iii) for the words "Tied Insurance Intermediaries Company Register of one of the companies concerned.", there shall be substituted the words "Tied Insurance Intermediaries Company Register of one of the undertakings concerned.";

(f) for sub-article (6) thereof, there shall be substituted the following:

"(6) No person who is an employee of an authorised undertaking shall, solely by virtue of his employment by the undertaking, require registration in the Tied Insurance Intermediaries Company Register of the undertaking under this article.";

(g) in sub-article (9) thereof:

(i) for the words "An authorised company shall", there shall be substituted the words "An authorised undertaking shall"; and

(ii) for the words "issued by the company", there shall be substituted the words "issued by the undertaking".

88. Sub-article (3) of article 38 of the principal Act shall be amended as follows:

Amendment of article 38 of the principal Act.

(a) in paragraph (a) thereof, for the words "paid to the company", there shall be substituted the words "paid to the authorised undertaking"; and

(b) in paragraph (b) thereof, for the words "paid by the authorised company", there shall be substituted the words "paid by the authorised undertaking".

89. Article 39 of the principal Act shall be amended as follows:

Amendment of article 39 of the principal Act.

(a) in paragraph (a) thereof, for the words "any authorised company may strike off the Tied Insurance Intermediaries Company Register of the company", there shall be substituted the words "any authorised undertaking may strike off its Tied Insurance Intermediaries Company Register";

(b) in paragraph (b) thereof, for the words "Tied Insurance Intermediaries Company Register of an authorised company may make an application in writing to the company concerned requesting the company", there shall be substituted the words "Tied Insurance Intermediaries Company Register of an authorised undertaking may make an application in writing to the undertaking concerned requesting it".

90. Article 40 of the principal Act shall be amended as follows:

Amendment of article 40 of the principal Act.

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(a) in sub-article (1) thereof, for the words "Where an authorised company elects to strike the name of a person off the Tied Insurance Intermediaries Company Register of the company, the company shall forthwith notify", there shall be substituted the words "Where an authorised undertaking elects to strike the name of a person off its Tied Insurance Intermediaries Company Register, such undertaking shall forthwith notify";

(b) in sub-article (2) thereof:

(i) for the words "Where an authorised company strikes the name of a person off the Tied Insurance Intermediaries Company Register of the company", there shall be substituted the words "Where an authorised undertaking strikes the name of a person off its Tied Insurance Intermediaries Company Register";

(ii) for the words "the company shall also notify in writing", there shall be substituted the words "the undertaking shall also notify in writing";

(c) in sub-article (3) thereof:

(i) for the words "notification from an authorised company that the company has elected to strike the name of a person off the Tied Insurance Intermediaries Company Register of the company,", there shall be substituted the words "notification from an authorised undertaking that such undertaking has elected to strike the name of a person off its Tied Insurance Intermediaries Company Register,";

(ii) for paragraph (a) thereof, there shall be substituted the following:

"(a) if the striking of such name off the register is on grounds other than those specified in sub-article (2), as early as reasonably practicable, confirm in writing to the authorised undertaking that the name of such person, in so far as it relates to that undertaking, shall be struck off the Tied Insurance Intermediaries List as from the date specified in the undertaking's notification;"

(d) for paragraph (a) of sub-article (4) thereof, there shall be substituted the following:

"(a) if the name of that person is registered in the Tied Insurance Intermediaries Company Register of any other authorised undertaking, the competent authority shall also forthwith notify in writing that other undertaking and direct it to strike forthwith the name of that person off the Tied Insurance Intermediaries Company Register of that undertaking and give the undertaking the reasons for its direction;"

(e) in sub-article (6) thereof, for the words "Where an authorised company receives in writing an application from a person registered in the Tied Insurance Intermediaries Company Register of the company requesting the company to strike the name of that person off the said register, the company shall without undue delay strike the name of that person off the said register", there shall be substituted the words "Where an authorised undertaking receives in writing an application from a person registered in the Tied Insurance Intermediaries Company Register of the undertaking requesting such undertaking to strike the name of that person off the said register, the undertaking shall without undue delay strike the name of that person off the said register";

(f) for sub-article (7) thereof, there shall be substituted the following:

"(7) Where, on an application made to an authorised undertaking under sub-article (6), the undertaking refuses, or unduly prolongs the process, to strike the name of a person off its Tied Insurance Intermediaries Company Register, the person concerned may refer the matter to the competent authority and the competent authority shall issue in writing to the undertaking concerned those directives it deems necessary to oblige the undertaking to hasten the process to strike the name of that person off its register."; and

(g) for sub-article (8) thereof, there shall be substituted the following:

"(8) On notification by the competent authority to an authorised undertaking that the name of a person registered in the Tied Insurance Intermediaries Company Register of the undertaking has been struck off the Tied Insurance Intermediaries List, the undertaking concerned shall forthwith surrender to the competent authority the certificate of enrolment relating to that person, and any

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official copies thereof."

Amendment of article 41 of the principal Act.

91. In the proviso to sub-article (1) of article 41 of the principal Act, for the words "shall inform the company concerned", there shall be substituted the words, "shall inform the undertaking concerned".

Amendment of article 43 of the principal Act.

92. In sub-article (1) of article 43 of the principal Act, for the words " "authorised company" ", there shall be substituted the words " "authorised undertaking" ".

Amendment of article 44A of the principal Act.

93. In sub-article (2) of article 44A of the principal Act, the words "within the meaning of the Financial Markets Act or on an equivalent market in a non-Member State or non-EEA State" shall be deleted.

Amendment of article 45 of the principal Act.

94. In sub-article (3) of article 45 of the principal Act, for the words "meetings held between an authorised company, an insurance intermediary, an approved auditor and the competent authority", there shall be substituted the words "meetings held between an authorised undertaking, an insurance intermediary, an approved auditor and the competent authority".

Amendment of article 47 of the principal Act.

95. Sub-article (3) of article 47 of the principal Act shall be deleted.

Amendment of article 48 of the principal Act.

96. Article 48 of the principal Act shall be amended as follows:

(a) for paragraph (d) of sub-article (1) thereof, there shall be substituted the following:

Cap. 403. "(d) an insurance and reinsurance undertaking authorised under the Insurance Business Act;"

(b) in sub-article (2) thereof:

(i) for the words "Any foreign company enrolled or authorised", there shall be substituted the words "Any foreign company enrolled or any third country insurance undertaking or third country reinsurance undertaking authorised "; and

(ii) for the words "such company shall add", there shall be substituted the words "such foreign company, third country insurance undertaking or third country reinsurance undertaking shall add".

97. Article 49 of the principal Act shall be amended as follows: Amendment of article 49 of the principal Act.

(a) for the words "under this Act and any regulations made thereunder", there shall be substituted the words "under this Act and any regulations or any insurance intermediaries rule made thereunder"; and

(b) in paragraph (e) thereof, for the words "on a director, an officer, a clerk", there shall be substituted the words "on a director, an officer, secretary, a clerk".

98. Article 50 of the principal Act shall be amended as follows: Amendment of article 50 of the principal Act.

(a) in sub-article (2) thereof:

(i) for the words "any person who, or any company which, is aggrieved by a decision of the competent authority -", there shall be substituted the words "an appeal shall lie to the Financial Services Tribunal with respect to -";

(ii) in paragraph (a) thereof, for the words "to refuse to register or to enrol", there shall be substituted the words "any refusal to register or to enrol";

(iii) in paragraph (b) thereof, for the words "to impose any condition", there shall be substituted the words "any condition imposed";

(iv) in paragraph (c) thereof, for the words "to suspend or strike the name of a person off", there shall be substituted the words "any suspension or striking off of the name of a person from";

(v) in paragraph (d) thereof, for the words "to refuse to restore the name", there shall be substituted the words "any refusal to restore the name";

(vi) paragraphs (e), (f), (g), (h) and (i), shall be renumbered as (f), (g), (h), (i) and (k), respectively;

(vii) immediately after paragraph (d) thereof, there shall be added the following new paragraph (e):

"(e) any one or more measures taken under article 19;"

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(viii) in paragraph (f) thereof, as renumbered, for the words "to refuse to register", there shall be substituted the words "any refusal to register";

(ix) in paragraph (g) thereof, as renumbered, for the words "to strike the name of a person off", there shall be substituted the words "any striking off of the name of a person from";

(x) for paragraph (h) thereof, as renumbered, there shall be substituted the following:

"(h) any requirement on an authorised undertaking to strike the name of a person off the Tied Insurance Intermediaries Company Register under article 41;"

(xi) in paragraph (i) thereof, as renumbered, for the words "to issue any notice or make any order", there shall be substituted the words "any notice issued or any order made";

(xii) immediately after paragraph (i) thereof, as renumbered, there shall be added the following new paragraph (j):

Cap. 403. "(j) any directive given under article 31A of the Insurance Business Act, made applicable by article 54 of this Act;"

(xiii) in paragraph (k) thereof, as renumbered, for the words "to impose an administrative penalty", there shall be substituted the words "any administrative penalty imposed"; and

(b) sub-articles (3) and (4) thereof shall be deleted.

Amendment of article 52 of the principal Act.

99. Sub-article (1) of article 52 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof, for the words "enrolment under this Act or any regulations made thereunder", there shall be substituted the words "enrolment under this Act or any regulations or any insurance intermediaries rule made thereunder,";

(b) paragraphs (d), (e), (f), (g), and (h), shall be renumbered as (e), (f), (g), (h) and (i), respectively;

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph (d):

"(d) who is knowingly a party to the carrying out of insurance intermediaries activities with a fraudulent intent or for a fraudulent purpose; or";

(d) in paragraph (i) thereof, as renumbered, for the words "or any regulations made thereunder," there shall be substituted the words "or any regulations or any insurance intermediaries rule made thereunder,".

100. Sub-article (1) of article 53 of the principal Act shall be amended as follows: Amendment of article 53 of the principal Act.

(a) in paragraph (a) thereof, for the words "imprisonment greater than two years;", there shall be substituted the words "imprisonment greater than four years;"; and

(b) in paragraph (b) thereof, for the words "or greater than one hundred and sixteen thousand euro (€116,000);", there shall be substituted the words "or greater than four hundred and sixty-six thousand euro (€466,000);".

101. Article 54 of the principal Act shall be amended as follows: Amendment of article 54 of the principal Act.

(a) in sub-article (1) thereof:

(i) in sub-paragraph (ii) of paragraph (a) thereof, for the words "to "authorised company" ", there shall be substituted the words, "to "authorised insurance or reinsurance undertaking" "; and

(ii) in sub-paragraph (ii) of paragraph (b) thereof, for the words "to "an authorised company" ", there shall be substituted the words "to "an authorised insurance undertaking" ";

(b) in sub-article (2) thereof, for the words "and references to "insurance rules" ", there shall be substituted the words "and references to "Insurance Rules" ".

102. The Third Column of the Schedule to the principal Act, shall be amended as follows: Amendment of the Schedule to the principal Act.

(a) in paragraph (2) thereof:

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(i) for the words "appointed by a company authorised under the Insurance Business Act", there shall be substituted the words "appointed by an undertaking authorised under the Insurance Business Act"; and

(ii) for the words "on behalf of the company", there shall be substituted the words "on behalf of the undertaking";

(b) in paragraph (4) thereof:

(i) for the words "on behalf of one or more authorised companies", there shall be substituted the words "on behalf of one or more authorised undertakings"; and

(ii) for the words "the full responsibility of those authorised companies", there shall be substituted the words "the full responsibility of those authorised undertakings".

PART III AMENDMENTS TO THE COMPANIES ACT, CAP. 386

Amendments of
the Companies
Act.
Cap. 386.

103. This Part amends and shall be read and construed as one with the Companies Act, hereinafter in this Part referred to as "the principal Act".

Amendment of
article 84A of
the principal
Act.

104. In paragraph (a) of sub-article (2) of article 84A of the principal Act, for the words "and shall include the business of affiliated insurance as prescribed by regulations issued thereunder,", there shall be substituted the words, "and shall include the business carried on by a captive insurance undertaking and captive reinsurance undertaking in terms of the said Act,".

Amendment of
article 168 of
the principal
Act.

105. Article 168 of the principal Act shall be amended as follows:

(a) for the marginal note thereto there shall be substituted the following:

"Annual accounts of banks, insurance and reinsurance undertakings and financial institutions.";

(b) in sub-article (1) thereof, for the words "and insurance companies governed by the Insurance Business Act", there shall be substituted the words "and insurance and reinsurance undertakings governed by the Insurance Business Act"; and

(c) for sub-article (3) thereof, there shall be substituted the following:

"(3) Insurance and reinsurance undertakings shall comply with any Insurance Rules made under the Insurance Business Act in respect of their annual accounts."

Objects and Reasons

The object of this Bill is to transpose the provisions of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (recast), (the "Solvency II Directive"), and Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority), (the "Omnibus II Directive"), by amending the Insurance Business Act (Cap. 403), and also to provide for matters incidental and ancillary thereto. The proposed amendments to the Insurance Intermediaries Act (Cap. 487) and the Companies Act (Cap.386) are consequential to the amendments proposed to the Insurance Business Act, and are deemed necessary to ensure consistency in the legislation.

