

Issue N° 36
October 2014

GANADO
ADVOCATES

INSURANCE AND PENSION LAW NEWSLETTER

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INTRODUCTION

We are pleased to enclose our latest Insurance & Pension Law Newsletter which the Insurance and Pensions Team at GANADO Advocates has been publishing on a quarterly basis for the last decade or so. Over the years, GANADO Advocates has built a very strong and capable team of lawyers and other professionals with specialisation and depth in most aspects of insurance and private pensions law.

We trust that you will find this issue of the Newsletter to be of interest.

**INSURANCE &
PRIVATE PENSIONS TEAM**

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Questions & Suggestions

CONTRIBUTORS

Dr Matthew Bianchi
Dr Matthew Brincat
Dr Elaine Magri
Dr Stephanie Cassar
Dr Stephanie Zarb Adami
Dr Clement Mifsud Bonnici
Dr Philip Mifsud

COURSES

Has Solvency II increased the roles and obligations of Directors?

GANADO Insurance and Pensions Team to lecture on the increased roles and responsibilities of the Board of Directors due to the Solvency II Directive coming into force on the 1st January 2016. Dates of when the seminar will be held will be submitted shortly and such course will delve into the increased obligations of the Board of Directors and any current issues being witnessed during the preparatory stage together with the future challenges of the Directors in relation to the three pillars of the Solvency II Directive. For further information please contact Stephanie Cassar on scassar@ganadoadvocates.com

Maltese Retirement Pensions Market

GANADO Insurance and Pensions Team to lecture on the Maltese Retirement Pensions Market. GANADO Insurance and Pensions Team in collaboration with the Institute of Legal Studies and Castille Resources will be lecturing on the Maltese Retirement Pensions Market. The seminar will be held on the 28th October, 4th, 11th and 18th November 2014, and will delve into the current issues and future challenges of the private pension market and will provide attendees with a broad outline of the current legal, tax and regulatory framework for Maltese pensions. For further information please contact the Institute of Legal Studies on info@ils.com.mt

Tax incentives to be introduced to encourage savings

A Bill to amend the Income Tax Act was published on 29 July 2014. This Bill seeks to amend the Income Tax Act by introducing an exemption on tax payable on interest received by an individual if certain conditions are met. Specifically, there must be recognition by the Commissioner for Revenue, and the aggregate amount of deposits into such account and the value of the interest-bearing securities credited into the account must not exceed €1,000 in any year.

In a similar vein, this Bill caters for the creation of a tax credit in respect of contributions made by a person to any personal retirement scheme or premiums paid in respect of a policy of insurance. The tax credit will be equal to the lower of:

- 15% of the aggregate of the contributions or premiums paid; and
- €150.

This tax credit will only be available in respect of qualifying schemes or policies of insurance as may be prescribed by the Commissioner. It is expected that more detailed Regulations will be published in the future to identify the conditions for qualification.

MFSA launches Securitisation PCC consultation

The MFSA is proposing a new regulation on securitisation cell companies. The draft regulation was launched as part of a consultation process on 4 September 2014. The consultation runs through until 24 September 2014.

The draft regulations establish a new legal entity, the Securitisation Cell Company ('SCC') which is a single legal entity having the ability establish one or more cells for the purpose of entering into securitisation transactions. In terms of the draft regulations, a securitisation cell company may either be established as a securitisation vehicle or as a reinsurance special purpose vehicle suggesting that SCCs may be ideally suited for programmes of asset-backed securities and insurance-linked securities respectively. Prior MFSA authorisation would only apply in the case of a securitisation cell company used as a reinsurance special purpose vehicle. As with PCCs, each cell of a securitisation cell company would constitute a separate patrimony with the assets of a cell only available to satisfy liabilities of creditors of the relevant cell.

In an explanatory document accompanying the draft regulations, the MFSA explained that "by uniting the highly sophisticated frameworks [for securitisation vehicles and reinsurance special purpose vehicles] with the cell company concept, the proposed Regulations now provide a legally entrenched framework for the segregation of different sets of assets and risk instruments within a single special purpose vehicle, the SCC, thus allowing for the launch of multiple asset-backed or insurance-linked securities without incurring any risk of cross-contamination between the different sets of creditors and investors."

The proposals mark the first attempt of a European Union state to legislate the use of cell companies as securitisation vehicles. The proposals augment Malta's established reputation as a cell domicile in the funds and insurance sectors.

More details of the consultation may be obtained by [clicking here](#).

The European Commission issues a call for advice from EIOPA on the development of a single market for personal pensions

On 25th July 2014, the European Insurance and Occupational Pensions Authority (EIOPA) published a call for advice sent by the European Commission on the development of a single market for personal pensions.

In its communication the European Commission requested EIOPA to give advice on personal pension products that meet the main characteristics identified by EIOPA in its preliminary report of March 2014 as well as to consider a large scope (including personal pension products in the form of life insurance products, group pensions/ contracts and Pillar 1bis schemes, as well as other types of personal pension products such as annuity products and in particular reverse mortgages).

EIOPA will work in consultation with ESMA and EBA in preparing the advice and final submissions are accepted by 1st February 2016. The European Commission will consider advice in examining whether a legislative initiative is required for personal pension products.

For further information, you can access the report by [clicking here](#).

MFSA Issues New Guidance Note on Solvency Requirements of PCCs

On 22 August 2014, the MFSA issued a Guidance Note entitled "Solvency Requirements in relation to Protected Cell Companies". This Guidance Note clarifies the solvency requirements for PCCs in terms of Solvency I under different scenarios pending Solvency II implementation, with a particular emphasis on the calculation of the Solvency Capital Requirement (SCR) and the adjustment to the Own Funds. Reference is also made to the presence of diversification within PCCs.

This Note reflects the latest developments included in the updated Technical Specifications for the Solvency II valuation and Solvency Capital Requirements calculations (Part I) as distributed by EIOPA on the 18th of October 2012. However, it must be noted that the EIOPA document is still a working document and hence it is possible that further changes could take place in the future.

The Guidance Note has concluded the following:

- the core and the cells within the PCC structure can be treated as ring-fenced funds under Solvency II;
- the SCR for PCCs can be calculated using either the standard formula, USPs or internal models (full or partial);
- diversification is permitted within the core or any of the cells in isolation; and
- diversification between the cells and the core is only possible for ring-fenced funds which fall under Article 304 of Directive 2009/138/EC and where conditions specified in that Article are met.

The full text of the MFSA Guidance Note may be accessed by [clicking here](#).

Positive trend in the Retirement Scheme Industry

The Malta Financial Services Authority published its annual report for 2013. It was reported that at the end of 2013, there were 32 registered pension schemes under the Special Funds (Regulation) Act. The assets under management of the retirement pension schemes went up by almost 86 per cent on the previous year, to stand at €1.1 billion at the end of 2013. For further information, you can access the report by [clicking here](#).

Increase in gross premium written experienced by both long term and general insurance businesses

The MFSA published its annual report for 2013. According to this report, insurance undertakings writing general business experienced an increase of almost 15.2 per cent in gross premium written, from €1.38 billion in 2012 to €1.59 billion in 2013.

Gross premium written in relation to risks situated in Malta climbed by 11.8 per cent in 2013 when compared to the previous year, to stand at almost €122 million. There was also an increase of 15.3 per cent in gross premium written in relation to risks situated outside Malta over the period 2012 – 2013.

Insurance undertakings writing long term business reported an increase of almost four per cent in gross premium written in 2013 when compared with the previous year, from €1.01 billion in 2012 to €1.05 billion in 2013. There was a surge of 9.7 per cent in gross premium written where Malta is the country of commitment while the gross premium written with respect to commitments outside Malta increased by 2.3 per cent over the period 2012 – 2013.

For further information, you can access the report by [clicking here](#).

Solvency Capital Requirement Calculation: EIOPA issues a document on the underlying assumptions in the standard formula

On the 25th July 2014, EIOPA issued a document representing the underlying assumptions of the standard formula used for the Solvency Capital Requirements calculations (SCR). The standard formula for SCR aims to capture the material quantifiable risks that most undertakings are exposed to. The standard formula might however not cover all material risks a specific undertaking is exposed to. A standard formula is, by its very nature and design, a standardised calculation method, and is therefore not tailored to the individual risk profile of a specific undertaking. For this reason, in some cases, the standard formula might not reflect the risk profile of a specific undertaking and consequently the level of own funds it needs.

The document covers all risk modules of the standard formula, addressing the assumptions related to the risks covered by the respective modules as well as the assumptions for the correlation between the modules. The document was informally consulted with stakeholders in Spring 2014 and revised following the comments received.

The document may be further amended as supervisory authorities and undertakings and groups gain experience with the use of the standard formula and the way undertakings and groups assess the significance of the deviation of the risk profile from the assumptions underlying the standard formula.

The document can be accessed by [clicking here](#).

Company Service Provider

A registration certificate issued to Dominion Corporate Services (Malta) Limited to act as a company service provider

A registration certificate issued to Apex Corporate & Advisory Services Limited to act as a company service provider

Pensions

Retirement Scheme Administrator

Certificate of Registration issued to Bourse Trust Company (Malta) Limited

Asset Manager

Certificate of Registration issued to Ravenscroft Investment Management Limited

Scheme

Certificate of Registration issued to Plegt-Vos Retirement Scheme.

Surrender of Licence

Surrender of licence issued to Arnold Clark Life Insurance (Malta) Limited.

Insurance

Cell

Approval of ABTA Cell as a cell of Lime Street Insurance PCC Limited to carry on business of insurance in one class of the general business

Approval of Cell Europe as a cell of HighDome PCC Limited to carry on business of insurance in three classes of the general business

Insurance Undertaking

Approval of licence issued to RCI Life Limited to carry on business of reinsurance in two classes of the Life classes in terms of the Insurance Business Act, 1998

Converted & Extended Licences

Insurance Undertaking

Extension issued to GasanMamo Insurance to carry on business of insurance in general business class 17 – Legal expenses in terms of the Insurance Business Act, 1998.

Agents List

Approval of Thomas Smith Insurance Agency Limited to act as insurance agent for GasanMamo Insurance Limited in one class of the general business

We trust that this issue of **Insurance & Pension Law Newsletter** was of interest to our readers, however, should you have any queries or suggestions to make, please feel free to contact:

Dr Matthew Bianchi at mbianchi@ganoadvocates.com or

Dr Mathew Brincat at mbrincat@ganoadvocates.com.

We will be pleased to hear from you.

Further should you wish to stop receiving the **Insurance & Pension Law Newsletter** please click **unsubscribe** on the email sending this newsletter, or by contacting mbianchi@ganoadvocates.com.

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Disclaimer

This update is not intended to impart advice; readers are advised to seek confirmation of statements made herein before acting upon them. Specialist advice should always be sought on specific issues.