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GANADO
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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.

As we all witness both regulatory developments (on a European and Maltese level) in both insurance and private pensions, it is imperative to keep up with the wave of change and to keep well informed of such changes. The aim of this newsletter is to share ongoing developments with you as they arise from time to time and it will serve as an update on what is happening in the insurance and pensions markets.

This newsletter is targeted at directors, managers and senior officers of insurance and reinsurance undertakings, captives, cell companies, managers, brokers and other insurance intermediaries, retirement scheme administrators, occupational pension schemes as well as service providers to such regulated entities, including legal counsel and asset managers.

In particular, this newsletter will include:

- i. Implementing Technical Standards and Guidelines;
- ii. Assessing external credit assessments under Solvency II;
- iii. Quantitative Reporting under Solvency II;
- iv. Procedures, formats and templates of the Solvency and Financial Condition Report - Disclosure requirements;
- v. Currency risk for currencies pegged to the Euro;
- vi. Political agreement on the Insurance Distribution Directive;
- vii. Regulatory Updates - Insurance, Pensions & IMD seminar; and
- viii. Pensions Update.

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

**INSURANCE &
PRIVATE PENSIONS TEAM**

SET 2 DRAFT

Implementing Technical Standards and Guidelines

The second set of draft Implementing Technical Standards (ITS) and Guidelines for Solvency II was published by EIOPA on 6th July 2015 following the public consultation which started on the 3rd December 2014 and closed on the 2nd March 2015. The ITS require the endorsement of the EU Commission and will enter into force following publication in the Official Journal of the EU. They do not need to be transposed into national legislation as they become directly applicable in all the Member States once in force. The Guidelines need to be translated into all the official languages of the EU before becoming applicable.

This set addresses aspects of all the three pillars of Solvency II and is aimed at providing insurance and reinsurance undertakings with a stable and solid basis for the final preparations for the new regime. In particular the Pillar III aspects address the reporting and disclosure requirements and provide the final set of templates and report formats. This will be followed by the XBRL Taxonomy based on these ITS relating to supervisory reporting, which should be released towards the end of July 2015.

The tables below list the different areas addressed in this second set under each respective pillar.

IMPLEMENTING TECHNICAL STANDARDS (ITS)	
PILLAR I Quantitative	<ul style="list-style-type: none"> • List of regional governments and local authorities • Index for the equity dampener • Currency shock for currencies pegged to the EURO • Standard deviations for health insurance obligations pegged to the EURO • Standard deviations for health insurance obligations subject to health risk equalization systems general business.
PILLAR II Qualitative	<ul style="list-style-type: none"> • Procedures when assessing external credit assessments • Supervisory transparency and accountability • Capital add-ons
PILLAR III Reporting/Disclosures	<ul style="list-style-type: none"> • Templates for the submission of information to the supervisory authorities • Procedures, formats and templates of the Solvency and Financial Condition Report • Exchange of information on a systematic basis within colleges

	GUIDELINES (GLs)
PILLAR I Quantitative	<ul style="list-style-type: none"> • Valuation of assets and liabilities (other than Technical Provisions) • Implementation of the long term guarantee measures
PILLAR II Qualitative	<ul style="list-style-type: none"> • Extension of the recovery period
PILLAR III Reporting/Disclosures	<ul style="list-style-type: none"> • Methods to determine the market share for the purpose of exemptions to supervisory reporting • Reporting for financial stability purposes • Reporting and disclosure

You may view full details of the outcome of the public consultations in these two links: [Link 1](#) and [Link 2](#).

Assessing external credit assessments under Solvency II

As part of Set 2 of the Implementing Technical Standards published on the 6th July 2015 EIOPA has published a draft implementing regulation in relation to the procedures for assessing external credit assessments. This Regulation requires endorsement by the EU Commission and will then enter into force on the twentieth day following its publication in the Official Journal of the EU. The Regulation does not require transposition into national law and will be directly applicable in all Member States once it is in force.

Insurance and Reinsurance undertakings are required to perform additional assessments to validate the appropriateness of external credit assessments that are used in calculating the Technical Provisions and the Solvency Capital Requirement (SCR). These additional assessments should be described in the documented Risk Management Policy and should include

- i. the scope and frequency of the additional assessments;
- ii. how the additional assessments are performed and the underlying assumptions; and
- iii. the frequency of review of such assessments and a description of what would trigger an ad hoc review.

The Risk Management function is responsible to ensure that the additional assessments are performed and that their outcome is considered in the calculations of the Technical Provisions and SCR. Both the assessments and the extent to which their results are considered in the calculation of the Technical Provisions and SCR must be recorded by the undertaking.

To view the full draft Regulation click [here](#).

Quantitative Reporting under Solvency II

Set 2 of the Implementing Technical Standards for Solvency II described above include the draft implementing regulation for the final set of quantitative reporting templates (QRTs) to be used under the new regime. This Regulation requires the endorsement of the EU Commission and will enter into force on the twentieth day following publication in the Official Journal of the EU. The Regulation does not need to be transposed into national legislation as it becomes directly applicable in all the Member States once it is in force. It is anticipated that these QRTs will apply from January 2016 in line with full Solvency II implementation.

To view the full text of the draft implementing regulation click [here](#).

A table summarizing the full set of templates can be accessed [here](#).

Procedures, formats and templates of the Solvency and Financial Condition Report - Disclosure requirements

Set 2 of the Implementing Technical Standards for Solvency II described above include the disclosure requirements under Solvency II that are to be included in the Solvency and Financial Condition Report ('SFCR'). The aim is to have harmonized disclosures which enable an improved understanding of the information disclosed to the public and allow comparison across different undertakings and across time.

Groups that are permitted to publish a single SFCR are required to disclose separately, for each individual undertaking covered by that report, the information described by this regulation in addition to the information prescribed for groups. When such permission is granted, the group supervisor would contact all the supervisory authorities concerned and discuss, in particular, the language of the SFCR. An explanation would be required as to how the subsidiaries are covered by the single SFCR and how the Board of Directors of the subsidiaries would be involved in the process of developing and approving the SFCR.

The templates to be publicly disclosed include information on the

- Balance Sheet;
- Premiums, Claims and expenses by line of business and by country;
- Technical Provisions;
- Claims development triangles;
- Impact of the long term guarantees and transitional measures;
- Own Funds;
- Solvency Capital Requirement (Standard Formula alone or with partial internal model or full internal model); and
- Minimum Capital Requirement.

The information that is disclosed must be fully consistent with the information that is reported to the supervisory authority.

To view the full text of the draft implementing regulation click [here](#).

Currency risk for currencies pegged to the Euro

Set 2 of the Implementing Technical Standards for Solvency II described above also includes the draft implementing regulation for currency risk for currencies pegged to the euro.

The aim is to achieve a consistent treatment of currencies pegged to the euro in the calculation of the capital requirement for currency risk. To this end adjusted factors are provided in this regulation in relation to the exchange rates between the Euro and currencies that are pegged to the Euro and in relation to the exchange rates between two currencies pegged to the Euro.

To view the full text of the draft implementing regulation click [here](#).

Political agreement on the Insurance Distribution Directive

The trialogue between the European Parliament, the European Commission and the Council on the Insurance Distribution Directive (the “IDD”) was concluded on the 30th June 2015 and the political agreement was hailed as a success for the Latvian Presidency. The political compromise has cemented consumer protection in the sales of insurance products and Lord Jonathan Hill, the EU Commissioner responsible for Financial Stability, Financial Services and Capital Markets Union was quoted as saying that “Consumers will benefit from greater choice and information when they buy insurance products, with more accountability and competition.”

Even though public information is at the moment sparse, the European Commission issued a press release detailing the main benefits of the IDD. These include:

- i. Greater transparency in relation to price and costs of products including whether the insurance distributor has an own economic incentive to sell a particular insurance product;
- ii. Better information, standardized Product Information Documentation for non-life products;
- iii. Enhanced rules in relation to packaged or bundled products;
- iv. Rules on transparency and business conduct to prevent consumers from buying products that do not meet their needs.

The insurance distribution rules are no longer limited to the selling of insurance products via an intermediary but will now also apply to insurance companies who sell directly an insurance product. Moreover, it was agreed that it is up to a Member State to allow insurance distributors to continue to earn revenue through commissions or third party payments, but only if they are able to demonstrate that this commission also benefits the customer.

Regulatory Updates - Insurance, Pensions & IMD Seminar

GANADO Advocates in collaboration with Castille Resources delivered a seminar on Insurance, Pensions and IMD Regulatory Updates on the 2nd July 2015. The seminar focused on the latest regulatory developments in the Insurance sector especially on Solvency II developments and the final stage of the preparatory phase before full implementation in January 2016. The seminar also included an analysis of the new Retirement Pensions Act and the underlying Rules in relation to Schemes and Service Providers. Key developments on the IMD II Directive were also explained and what impact they may have on the insurance distribution network. The seminar also covered key issues for domestic undertakings with local and/or overseas activities; both local and European Consultations and the status of transposition into national law described together with the anticipated next steps. Ms. Tanya Causon and Dr. Elaine Magri delivered this seminar.

Pensions Update

The pensions industry in Malta has been growing exponentially over the last few years. In January 2015, the latest milestones were reached with the enactment of the Retirement Pensions Act (Chapter 514 of the Laws of Malta) which replaced the Special Funds Act of 2002, together with a new set of 'pension rules and regulations' issued by the Malta Financial Services Authority.

A new set of legislative amendments in the UK in early April also resulted in new HMRC requirements for schemes to be recognised as QROPS, which further aligned the conditions for the establishment of registered pension schemes in both countries. This meant that the Maltese registered QROPS had to undertake a transitional application process whereby their relevant constitutive documentation was amended in order to reflect the latest changes. The changes included the implementation of a revised minimum retirement age of 55 instead of the previous 50 for UK transfers. This process was a successful one, leading to Malta maintaining its favourable status of compliance with HMRC, and also retaining its place on the HMRC's QROPS list.

Furthermore, local tax incentives were increased in order to continue to encourage Maltese taxpayers to invest their earnings in personal pension private products offered by local financial institutions. Even more interesting developments within this young but thriving industry are expected in the coming months, especially in the sphere of multi-employer cross border occupational schemes, also known as IORPS.

New Licenses

Insurance Undertakings

- Licence issued to **PSA Insurance Europe Limited** to carry on business of insurance in three classes of the general business.
- Licence issued to **PSA Life Insurance Europe Limited** to carry on business of insurance in one class of the long term business.
- Licence issued to **Standard Re (Malta) Limited** to carry on business of reinsurance in two classes of the general business.
- Licence issued to **DARAG Malta Insurance and Reinsurance PCC Limited** to carry on business of insurance and reinsurance in thirteen classes of the general business.

Enrolment of Insurance Manager

- **PSA Insurance Manager Limited** has been granted enrolment in the Managers List.

Cells

- Approval of **Northern Light Insurance Cell** as a cell of Jatco Insurance Brokers PCC Limited to carry on business of insurance.

Retirement Scheme Administrator

- Certificate of Registration issued to **Elmo Pensions Limited**

Retirement Scheme

- Certificate of Registration issued to Elmo International Retirement Plan.

Trustees and Fiduciaries

- Authorisation issued to **DCTS (Malta) Limited** to provide fiduciary services which do not include acting as a Trustee.
- Authorisation issued to **IG Trustee Ltd** to act as Trustee or co-Trustee in terms of Article 43 of the Trusts and Trustees Act.
- Authorisation issued to **Aqua Trust Services Malta Limited** to act as Trustee or co-Trustee and to act as administrator of private foundations in terms of Article 43 of the Trusts and Trustees Act

Cancelled Licenses

Retirement Scheme Administrator

- Termination of registration of **Abacus Corporate Services Limited**.

Trustees and Fiduciaries

- Surrender of licence issued to **Capitol Nominee Services Limited**.

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

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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.