

# Insurance & Private Pension Law Update



21<sup>st</sup> April, 2009

## INSURANCE COMPLIANCE BULLETIN

### Who Should Read this Compliance Bulletin?

- Insurance / Reinsurance Companies
- Insurance Agents
- Insurance Brokers
- Persons interested in effecting introductions to the above.

*Past Issues of this Compliance Bulletin and of the Update are available from our website [www.jmganado.com](http://www.jmganado.com)*

## MFSA Introducer Regime to be extended to Insurance Sector as from 30<sup>th</sup> April, 2009

Following consultations carried out last year, the Maltese legislator and the Malta Financial Services Authority (“MFSA”) have by means of an amendment to the Insurance Intermediaries (Exemption) Regulations (S.L.487.05) and a new MFSA Insurance Intermediaries Rule (IIR 24 of 2009 on Introducers) extended the Introducer exemption applicable to Investment Services Business to Insurance Business. The amendment and MFSA Insurance Intermediaries Rule will each come into effect on **30<sup>th</sup> April, 2009**.

### ***Who may appoint an Introducer?***

Introducers may be appointed by Insurers, Reinsurers, Insurance Agents or Insurance Brokers authorised in Malta (each a “**licence holder**”).

### ***Who may be appointed as an Introducer?***

Any individual or company may be appointed by a licence holder, however, persons authorised under the Insurance Business Act (Insurers and Reinsurers) or under the Insurance Intermediaries Act (Insurance Agents, Insurance Brokers, Insurance Managers or Tied Insurance Intermediaries/Sub-Agents) may not be appointed as an Introducer. An Introducer may hold an appointment as Introducer from more than one licence holder.

### ***What activities may an Introducer carry out?***

The activities of an Introducer are to be limited to:

- the passing on of contact details of prospective policyholders to licence holders (not *vice versa*) and
- to arranging a first meeting between the prospective policyholder and the licence holder.

If you envisage that your activities (in the case of prospective intruducers) or those of your intermediaries (in the case of licence holders) cannot be realistically restricted to the activities mentioned above then you may need to consider MFSA Authorisation.

Introducers may not:

- pass contact details of licence holders to prospective policyholders
- give advice on, promote or market any insurance product
- pass on any promotional material or documentation
- assist policyholders in the completion of documentation relating to a policy (eg. Proposal forms)
- handle clients monies or give any insurance commitments on behalf of a licence holder
- advertise or otherwise hold themselves out to the public as offering introducer services

***Can Introducers receive remuneration?***

Yes. The Introducer Regime is intended to allow persons who introduce policyholders to licence holders on a regular basis and who may receive remuneration for such service. It should be noted though that Introducers may not advertise or hold themselves out to the public as offering introduction services.

***Are there any licensing requirements for Introducers?***

No, Introducers are exempt from the authorisation requirement under the Insurance Intermediaries Act.

However, it should be noted that:

- (a) licence holders who appoint Introducers are required to maintain a register containing the names and addresses of their Introducers as well as any other particulars deemed appropriate by the licence holder;
- (b) licence holders are to keep records of remuneration paid to each Introducer, which records are to be made available for inspection by the MFSA;
- (c) licence holders remain responsible for KYC checks of prospective policyholders notwithstanding an introduction by an Introducer; and
- (d) since Introducers do not benefit from the single passport granted by the Insurance Mediation Directive (the “IMD”), both prospective Introducers and licence holders wishing to appoint an Introducer in another country should ascertain that any applicable foreign regulatory requirements for such activities are abided by. Insurers and Reinsurers should be aware of their obligation under Article 48B of the Insurance Business Act (which transposes an IMD requirement) to ensure that their intermediaries are duly authorised for the activities which they carry out.

**Should you have any questions or comments about the matters raised in this Compliance Bulletin please do not hesitate to contact Dr. Matthew Bianchi ([mbianchi@jmganado.com](mailto:mbianchi@jmganado.com)) or Dr. David B. Carbott ([dbcarbott@jmganado.com](mailto:dbcarbott@jmganado.com)).**

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