

**MFSA**

---

MALTA FINANCIAL SERVICES AUTHORITY

**INVESTMENT SERVICES  
RULES**

**FOR**

---

**INVESTMENT SERVICES  
PROVIDERS**

---

**Issued: 1<sup>st</sup> November, 2007**  
**Last updated: 3<sup>rd</sup> October 2014**

## INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS

### INTRODUCTION

---

These Investment Services Rules for Investment Services Providers have been issued in terms of the Investment Services Act, 1994 and set out MFSA's regulatory regime applicable to Investment Services Providers.

These Rules also implement and/or transpose:

- i. Certain provisions of Directive 2004/39/EC of the European Parliament and of the Council, of 21<sup>st</sup> April 2004, on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;
- ii. Certain provisions of the Commission Directive 2006/73/EC, of 10<sup>th</sup> August 2006, implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- iii. Certain provisions of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC ("CRD IV");
- iv. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ("CRR");
- v. Certain provisions of Directive 2009/65/EC of the European Parliament and of the Council, of 13<sup>th</sup> July 2009, on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities ("UCITS Directive");
- vi. Commission Directive 2010/42/EU, of 1<sup>st</sup> July 2010, implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure;
- vii. Commission Directive 2010/43/EU, of 1<sup>st</sup> July 2010, implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational

requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company;

- viii. Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010;
- ix. Commission Implementing Regulation (EU) No. 447/2013 of 15 May 2013 establishing the procedure for AIFMs which choose to opt in under Directive 2011/61/EU of the European Parliament and of the Council;
- x. Commission Implementing Regulation (EU) No 448/2013 of 15 May 2013 establishing a procedure for determining the Member State of Reference of a non-EU AIFM pursuant to Directive 2011/61/EU of the European Parliament and of the Council;
- xi. Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European Venture Capital Funds; and
- xii. Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European Social Entrepreneurship Funds.

These Rules also implement the various Guidelines and Recommendations issued by CESR/ESMA at Level III.

These Rules are divided into the following sections:

## *PART A: THE APPLICATION PROCESS*

---

This part provides:

- a description of the “investment services” which need to be carried out in relation to particular “instruments” for a licensable activity to occur;
- the criteria which MFSA will apply in considering an application for an Investment Services Licence;
- a description of the categories of Investment Services Licence;
- details with respect to the appointment by an Investment Services Licence Holder of a Compliance Officer and a Money Laundering Reporting Officer;
- a detailed description of the Application process and includes as Schedules, the relevant application Documents for an Investment Services Licence;

- details of the relevant application fees;
- details with respect to the process for the variation or surrender of an Investment Services Licence;
- a brief overview of the Standard Licence Conditions and ongoing regulatory requirement applicable to Investment Services Licence Holders including details of the applicable financial resources requirements;
- details relating to the appointment of Tied Agents by Investment Services Licence Holders and European Investment Firms; and
- details relating to the exercise of passport rights by Maltese Investment Firms and Maltese Management Companies and the Schedules containing specimen notification letters which such entities should send to MFSA in terms of their relative passporting procedures.

## *PART B: STANDARD LICENCE CONDITIONS*

---

This part is divided into four sections namely:

- Part BI which contains the Standard Licence Conditions applicable to Investment Services Providers which qualify as MiFID Firms;
- Part BII which contains the Standard Licence Conditions applicable to Investment Services Providers which qualify as UCITS Management Companies;
- Part BIII which contains the Standard Licence Conditions applicable to Investment Services Providers which qualify as Alternative Investment Fund Managers; and
- Part BIV which contains the Standard Licence Conditions applicable to Category 4 Licence Holders (Custodians of Collective Investment Schemes).

## *PART C: RULES FOR PERSONS EXERCISING EUROPEAN PASSPORT RIGHTS IN MALTA*

---

This part is divided into two sections as follows:

- The Rules contained in Part CI have been issued in terms of regulation 6 of the European Passport Rights for Investment Firms Regulations, 2007 and are applicable to Maltese branches of European Investment Firms in terms of article 32 of the MiFID Directive;
- The Rules contained in Part CII shall be deemed to be the “applicable provisions” to which European Management Companies are required to comply when carrying on

certain activities in terms of regulations 9 and 10 of the Investment Services Act (UCITS Management Company Passport) Regulations, 2011; and

- The Rules contained in Part CIII shall be deemed to be the “applicable provisions” to which European Alternative Investment Fund Managers are required to comply when carrying on certain activities in terms of regulations 6 and 7 of the Investment Services Act (Alternative Investment Fund Managers Passport) Regulations, 2012.

## **Other Investment Services Rules issued by the MFSA in terms of the Investment Services Act, 1994**

The MFSA has also issued:

### i. Investment Services Rules for Retail Collective Investment Schemes

The Investment Services Rules for Retail Collective Investment Schemes set out the MFSA’s regulatory regime applicable to Retail Collective Investment Schemes. These Rules include the Standard Licence Conditions applicable to Maltese Non-UCITS and Maltese UCITS Collective Investment Schemes respectively.

### ii. Investment Services Rules for Professional Investor Funds

The Investment Services Rules for Professional Investor Funds set out the MFSA’s regulatory regime applicable to Collective Investment Schemes set up as Professional Investor Funds and provide for three principal classes of Professional Investor Funds:

- PIFs promoted to Experienced Investors (or Experienced Investor Funds);
- PIFs promoted to Qualifying Investors (or Qualifying Investor Funds); and
- PIFs promoted to Extraordinary Investors (or Extraordinary Investor Funds).

### iii. Investment Services Rules for Recognised Persons

The Investment Services Rules for Recognised Persons set out the MFSA’s regulatory regime applicable to:

- Recognised Fund Administrators;
- Recognised Private Collective Investment Schemes and
- Recognised Incorporated Cell Companies.