

INVESTMENT SERVICES RULES FOR INVESTMENT SERVICES PROVIDERS

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

Part C I: Rules for Maltese Branches of European Investment Firms

These Rules have been issued in terms of Regulation 6 of the European Passport Rights for Investment Firms Regulations, 2007 which provides that the competent authority shall issue Investment Services Rules which the branch of the European Investment Firm must follow in its operations in Malta.

In terms of Article 32 of MIFID, the MFSA shall assume responsibility for ensuring that the services provided by the branch within Malta, comply with the obligations laid down in Articles 19, 21, 22, 25, 27 and 28 of MIFID and in measures adopted pursuant thereto. Moreover, as required by Article 13(9) of MIFID, MFSA is also required to enforce the obligation of a Maltese branch of a European Investment Firm to maintain records of all services and transactions undertaken by it which shall be sufficient to enable the MFSA to monitor compliance with its requirements under the Directive, and in particular, to ascertain that the European Investment Firm has complied with all obligations with respect to clients or potential clients with regard to transactions undertaken by the branch.

The purpose of this Part is therefore to clarify which of the Standard Licence Conditions included in Part B of these Investment Services Rules are also applicable to a European Investment Firm establishing a branch in Malta.

With respect to their operations in Malta, branches of European Investment Firms shall comply with the following Standard Licence Conditions in Part BI of these Rules which transpose Articles 13(6), 19, 21, 22, 25, 27 and 28 of MIFID and in measures adopted pursuant thereto:

Part BI: Section 2

Conduct of Business

SLCs 2.01 – 2.02	General
SLCs 2.03 – 2.12	Client Classification
SLCs 2.13 – 2.26	Client Profile Requirements
SLCs 2.27- 2.37	Client Disclosure Requirements
SLCs 2.38 – 2.39	Retail Client Agreement

SLCs 2.40 – 2.53	Client Reporting
SLCs 2.54 – 2.71	Best Execution Requirements
SLCs 2.72 – 2.81	Client Order Handling Rules
SLCs 2.83 - 2.85	Record Keeping
Part BI: Section 3 Disclosure Requirements for Information to clients, including Marketing Communications	
SLC 3.01	General
SLCs 3.02 – 3.09	Marketing Information and other Information for Retail Clients and Potential Retail Clients
SLCs 3.10 – 3.14	Information about Financial Instruments
SLCs 3.15 – 3.21	Disclosure Requirements applicable to Licence Holders holding or controlling Client Assets
SLC 3.22	Information about Costs and Associated Charges
SLC 3.23	Information Drawn up in accordance with Directive 2009/65/EC (“the UCITS Directive”)
Part BI: Section 6 Supplementary Conditions for Investment Services Licence Holders which Qualify as Systematic Internalisers and For Those Which Execute Off Market Deals.	
SLCs 6.01 – 6.14	
Part BI: Section 8 Transaction Reporting	
SLCs 8.01 – 8.05	
Appendix 8 of the Investment Service Rules	

In taking measures to comply with the above mentioned SLCs, Maltese branches of European Investment Firms should also take account of relevant Guidance Notes issued by the MFSA in relation to the requirements set out in Part B of these Rules.

Maltese branches of European Credit Institutions providing Investment Services in Malta in terms of the European Passport Rights for Credit Institutions Regulations, 2004, shall likewise be subject to the Rules referred to above.

Appointment of Tied Agents

Where the European Investment Firm appoints tied agents established in Malta, these shall be assimilated to the firm's branch in Malta and shall accordingly be subject to the registration requirements in terms of the Investment Services (Tied Agents) Regulations, 2007. Reference should also be made to Section 8 of Part A of these Investment Services Rules.

Enforcement

As the host State competent authority, MFSA has the powers assigned to it by Article 62 of MIFID (transposed by virtue of Regulation 12 of the European Passport Rights for Investment Firms Regulations, 2007), to ensure that the Malta branch of the European Investment Firm complies with the Rules indicated above.
