

**MFSA**

MALTA FINANCIAL SERVICES AUTHORITY

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**INVESTMENT SERVICES  
RULES**

**FOR**

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**RETAIL COLLECTIVE  
INVESTMENT SCHEMES**

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## INVESTMENT SERVICES RULES FOR RETAIL COLLECTIVE INVESTMENT SCHEMES

### INTRODUCTION

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These Investment Services Rules have been issued in terms of Article 6 of the Investment Services Act, 1994 and set out MFSA's regulatory regime applicable to Retail Collective Investment Schemes.

These Rules include regulatory requirements for four principal classes of collective investment schemes as follows:

1. Maltese Non UCITS Schemes;
2. Maltese UCITS Schemes;
3. Overseas based Non UCITS Schemes; and
4. European UCITS Schemes.

These classes of Retail Collective Investment Schemes are further described in Section 4 of Part A of these Rules.

These Rules also transpose/ implement:

- i. Certain provisions of the Council Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS Directive);
- ii. Certain provisions of the Commission Directive 2010/42/EU of 1 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;
- iii. Certain provisions of the Commission Directive 2010/43/EU of 1 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;
- iv. Commission Directive 2007/16/EC of the 19<sup>th</sup> March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions;

- v. Certain provisions of 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;
- vi. CESR's Guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS [CESR/10-788];
- vii. ESMA's Guidelines to competent authorities and UCITS management companies on risk measurement and the calculation of global exposure for certain types of structured UCITS [ESMA/2011/112];
- viii. CESR's template for the Key Investor Information Document [CESR/10-1321];
- ix. CESR's Guide to clear language and layout for the Key Investor Information Document [CESR/10-1320];
- x. CESR's Guidelines on the Transition from the Simplified Prospectus to the Key Investor Information Document [CESR/10-1319];
- xi. CESR's Guidelines on the Selection and presentation of performance scenarios in the Key Investor Information Document (KII) for structured UCITS [CESR/10-1318];
- xii. CESR's Guidelines on the methodology for calculation of the ongoing charges figure in the Key Investor Information Document [CESR/10-674];
- xiii. CESR's Guidelines on the methodology for the calculation of the synthetic risk and reward indicator in the Key Investor Information Document [CESR/10-673];
- xiv. CESR's guidelines to simplify the notification procedure of UCITS dated June 2006 [CESR/06-120b];
- xv. CESR's guidelines concerning eligible assets for investment by UCITS dated March, 2007 [CESR/07-044];
- xvi. CESR's guidelines concerning eligible assets for investment by UCITS: The classification of hedge fund indices as financial indices dated July, 2007 [CESR/07-434];
- xvii. Commission Recommendation of 27<sup>th</sup> April 2004 on the use of financial derivative instruments for undertakings for collective investment in transferable securities (UCITS) [2004/83/EC];

- xviii. CESR's Guidelines on a common definition of European Money Market Funds [CESR/10-049] as amended by the opinion published by ESMA on 22 August 2014 [ESMA/2014/1103] with respect to the assessment of credit quality of money market instruments;

These Rules are divided into 2 Parts as follows:

*Part A: The Application Process*

This Part provides:

- i. a detailed description of the Application Process and includes as Schedules, the relevant Application Documents for a Collective Investment Scheme Licence;
- ii. an outline of the licensing requirements applicable to Retail Collective Investment Schemes in terms of the Investment Services Act, 1994;
- iii. a detailed description of the different classes of Retail Collective Investment Schemes;
- iv. a description of the eligibility requirements to be satisfied by prospective Service Providers of a Retail Collective Investment Schemes;
- v. a non exhaustive list of documents to be submitted by an applicant in support of an application for a Collective Investment Scheme Licence;
- vi. the requirements applicable for the licensing of additional sub-funds within an existing umbrella Scheme; and
- vii. the requirements applicable for the approval of additional classes of shares of an existing Scheme (which classes of shares do not constitute one or more sub-funds).

*Part B: Standard Licence Conditions*

This Part is to be divided into two Sections and includes a number of Appendices. The SLCs for Maltese Non UCITS Schemes are set out in Part B I. Part B II includes the Standard Licence Conditions for Maltese UCITS Schemes.

The Standard Licence Conditions included in Parts BI and BII are applicable to Maltese Non-UCITS and Maltese UCITS Collective Investment Schemes respectively.

## ***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 Recognised Persons and Private Retail Collective Investment Schemes.*

These Investment Services Rules set out MFSA's regulatory regime applicable to Recognised Persons, namely Recognised Fund Administrators and Recognised Private Collective Investment Schemes.

*ii. Investment Services Rules for Investment Services Providers.*

The Investment Services Rules for Investment Services Providers set out MFSA's regulatory regime applicable to Investment Services Licence Holders, including Custodians and Managers of Collective Investment Schemes. They also include the Rules which are applicable to European Investment Firms establishing a Branch in Malta and to European Management Companies which provide services in Malta, on a cross border basis in terms of the passporting provisions set out in MIFID, UCITS Directive and AIFMD.

*iii. Investment Services Rules for Professional Investor Funds.*

These Investment Services Rules set out set out 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).

*iv. Investment Services Rules for Alternative Investment Funds.*

These Investment Services Rules set out set out MFSA's regulatory regime applicable to Alternative Investment Funds pursuant to the AIFMD.