

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Investment Services Rules for Professional Investor Funds

13th January 2009

1.0 Background

Reference is made to MFSA's circulars issued on the 9th and 18th December, 2008 concerning proposed amendments to the Investment Services Rules for Professional Investor Funds relating to:

- (a) New statistical reporting requirements applicable to collective investment schemes licensed in Malta and
- (b) proposed new rules applicable to Qualifying or Extraordinary Investors effecting draw-downs on investors' committed funds.

MFSA is today publishing the Investment Services Rules for Professional Investor Funds (hereinafter "the Rules") which come into effect on the 13th January 2009.

2.0 Amendments to the Rules

The amendments concern the following three areas:

2.1 New Statistical Reporting Requirements.

SLC 1.63 in Part B I of these Rules (Professional Investor Funds Targeting Experienced Investors), SLC1.57 in Part B II of these Rules (Professional Investor Funds Targeting Qualifying Investors) and SLC 1.59 in Part B III (Professional Investor Funds Targeting Extraordinary Investors) have been amended to read as follows:

"The Scheme – or the Manager or Administrator on its behalf – shall submit copies of the Scheme's annual audited financial statements and half-yearly report (if any) to the MFSA and such other information, as the MFSA may from time to time request. The half-yearly (if any) and annual reports shall be published and provided to investors in the Scheme, and submitted to the MFSA within two and four months respectively of the end of the period concerned.

The Scheme shall also submit to the MFSA any statistical returns which may be required by the Central Bank of Malta to fulfil European and other relevant reporting obligations."

Moreover, Appendix 4 to Part B of these Rules (Quarterly Statistical Return) has been deleted.

2.2 New Rules applicable to Qualifying or Extraordinary Investors effecting draw-downs on investors' committed funds.

The amendments relate to:

- a. a new section to be included in Appendix 1 to Part B of the Rules providing supplementary conditions for PIFs opting to effect drawdowns and;

In this regard, particular reference is made to the new SLC 5.3 which requires the Scheme to only make a fresh call for further commitments once all outstanding commitments from existing investors have been *requested*. MFSA would like to clarify that this SLC only requires the Scheme to *make a call for payment of the outstanding commitments*. Hence it is not necessary for all payments further to such call to have been received before the Scheme can make a fresh call for further commitments. Naturally, investors who default on their commitments vis-à-vis the Scheme may be liable thereto in terms of the agreement they have entered into with the Scheme in this context.

- b. the addition of two new paragraphs (ii) and (ii) under the section entitled "Risk Warnings" in Appendix II to Part B of the Rules (Contents of Offering Document).

2.3 Amendment of Schedule A to Part A of the Rules.

The application form for a licence to operate as a Professional Investment Fund has been amended by the inclusion of a new Annex II thereto requiring a standard confirmation by the applicant's auditor.

3.0 Contacts

The new Investment Services Rules for Professional Investor Funds may shortly be downloaded from the Authority's website located at www.mfsa.com.mt. Any queries regarding the above may be addressed to:

Dr. Sarah Pulis

Tel: 2548 5232

Email: spulis@mfsa.com.mt