

MFSA Newsletter

June 2015

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

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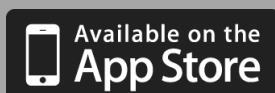
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Securitisation Cell Companies

Securitisation Cell Companies Regulations, 2014 (L.N. 411 of 2014) were enacted on the 28th November 2014. A securitisation cell company (SCC) is a company incorporated for the sole object of entering into securitisation transactions. SCCs, which are separate legal persons, have the power to establish within itself one or more cells for the purpose of securitisation transactions. On the other hand, the creation of a cell does not create, in respect of that cell, a legal person separate from the securitisation cell company.

Assets and liabilities of each cell comprised in a securitisation cell company will be treated as a patrimony separate from the assets and liabilities of each other cell of the securitisation cell company, and also separate from the assets and liabilities of the securitisation cell company itself.

Additionally cellular assets attributable to a cell of a securitisation cell company shall only be available to the creditors of the company who are creditors in respect of that cell and who are thereby entitled to have recourse to assets attributable to that cell.

In addition, cellular assets attributable to a cell of a securitisation cell company shall be absolutely protected from the creditors of the company who are not creditors in respect of that cell and who accordingly are not entitled to have recourse to the cellular assets attributable to that cell.

The provisions of Part II of the Regulations apply to a securitisation cell company carrying on the business of a securitisation vehicle in accordance with the Securitisation Act. On the other hand the provisions of Part III shall apply to a securitisation cell company carrying on business as a reinsurance special purpose vehicle in accordance with the Reinsurance Special Purpose Vehicles Regulations, and any reference to a securitisation cell company within this part shall be construed as a reference to a securitisation cell company carrying on exclusively business as a reinsurance special purpose vehicle in accordance with the Reinsurance Special Purpose Vehicles Regulations.

In this respect, a securitisation cell company may only carry on business as reinsurance special purpose vehicle only once it has obtained prior authorisation from the MFSA.

A SCC established to act as a Securitisation Vehicle prior to commencing business in respect of any cell, is required to give notice to the MFSA in terms of the Securitisation Act whilst a SCC acting as a 'public securitisation vehicle' requires the MFSA's prior approval prior to creating a cell.

A SCC may only carry on business as a reinsurance special purpose vehicle with the prior authorisation of the MFSA in terms of the Reinsurance Special Purpose Vehicles Regulations, and a cell may only be created with the prior approval of the MFSA.

The MFSA recently published on its website the Notification Form in relation to the underlying cells of the SCC at the following path <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=377> notice reading "Notice to the MFSA – SCCs". Currently, the MFSA has processed the Notification of one Parent SCC namely, Primus Global Securities Investment SCC plc. This SCC is expected to submit the Notification with respect to its underlying cells in terms of Article 22 of the Securitisation Cell Companies Regulations, 2014 (L.N. 411 of 2014), once its underlying cells are created.

New Guide to the Formation of Limited Partnerships

The MFSa has recently published a 'Guide on the Formation of Limited Partnerships'. The Guide provides an overview of this important feature of Maltese law with a focus on recent changes related to the use of LPs in a funds context.

Although the salient features of the LP have remained the same over the years, specific provisions regulating the establishment of Collective Investment Schemes ('CISs') as LPs were added to the Act through Act IV of 2003. As the LP structure increased in popularity with fund managers, additional amendments to the Schedule were enacted through Act XX of 2013 and Legal Notice 478 of 2014 so as to optimise the use of the LP as a fund vehicle.

One of the most important features of the Maltese LP is certainly the option to have the investment scheme's capital or not divided into shares. This enhances the transparency of the structure thereby increasing its flexibility.

Other key changes to the framework include the substitution of the requirement to register the Partnership Deed with the submission of a simple registration form and clarified the instances in which the LP is required to submit accounts further simplifying the compliance framework for LPs.

On the other hand, these valuable features do not alter the basic nature of the LP which, unlike the General Partnership, can continue to contract in its own right with limited liability where limited partners are concerned. Moreover, since limited partners are essentially passive members, the LP structure is particularly suitable for collective investment schemes since it is the general partner who is responsible for the management of the partnership.

More information can be found in the MFSa's brochure '[A Guide to the Formation of Limited Partnerships](#)'.

Loan funds, cell companies, de minimis regime: Malta fastest growing EU fund jurisdiction

The growing hedge fund industry in Malta featured extensively in this month's edition of Opalesque Roundtable. The Opalesque Roundtable provides readers with regular updates on important global hedge fund jurisdictions and their players. Speakers included MFSa Chairman Prof. Joseph Banister as well as Dr. Christopher P. Buttigieg and Charmaine Baldacchino, respectively Director and Senior Manager within the Securities and Markets Supervisory Unit at the MFSa.



Introducing the report, Matthias Knab, editor of the session's report, noted how Malta's reputation as a hedge fund domicile was established with the island's accession to the European Union in May 2004. Malta regularly receives high rankings in benchmarking reports and the World Economic Forum ranks Malta above average for almost every metric in financial market development. He further pointed out that when Oliver Wyman recently analyzed all European fund domicile jurisdictions, Malta came out as the one with the strongest growth.

Flexible regulation, transparency and good governance have long been some of Malta's key advantages, as well as its status as a cost-effective domicile for funds, asset managers, fund administrators and for custodians catering to the thriving fund industry.

The Opalesque Roundtable highlights some of the strong points for Malta like geography and efficient labour costs, but focuses mainly on how the regulator works. In this regard, in the editor's own words, "Malta stands out for its approachability of the regulator and a strong drive to innovate, obviously within the larger European framework."

In its introductory summary, the report notes that EU membership positioned Malta on a level playing field with other European Union countries, and introduced passporting rights so that investment services and UCITS schemes may be registered in Malta and passported to any EU country. Professional Investment Funds (PIFs) retain their popular regime, targeted at increasingly financially literate investors. PIFs refer to the Experienced Investor Fund, the Qualifying Investor Fund and the Extraordinary Investor Fund. The PIF regime is a very attractive structure for non-harmonised Funds of 1 and Family Office Funds.

The discussion also tackled the creation of a new regime for Alternative Investment Funds (AIFs), the licensing regime for de minimis managers, the establishment of the Recognised Incorporated Cell Company (RICC) and the adoption of a Loan Funds Regime.

The Opalesque 2015 Report is available for download [here](#).

Insurance sector developments on the agenda at Risk Congress

The Maltese insurance sector directly accounts for well over 700 employees and almost €3 billion of annual premiums. It is comprised of 60 companies operating in the direct, general business sector, but also includes a good number of reinsurers and long-term business insurers, Minister for Finance, Prof. Edward Scicluna pointed out in his opening remarks at the Malta International Risk Congress 2015.

This conference brought together in Malta a group of leading corporate and financial international risk management and transfer experts in a debating platform to focus on potentially catastrophic emerging risks and work out how best to manage them.

The two-day event, with 'Black Swan Rising' was organised by Commercial Risk Europe – a pan-European newspaper dedicated to news, trends and issues critical to corporate risk and insurance management executives across Europe – in association with the Malta Financial Services Authority.

Minister Scicluna said that Malta's declared policy of innovation has seen the insurance sector grow beyond recognition in the space of a few years. He added that protected cell legislation, to mention but one such innovation, has led to the authorisation of 11 Protected Cell companies and the approval of 29 protected cells since 2004, further boosting Malta's reputation as a leading European captive insurance jurisdiction.

Among other innovations brought in recently to allow for further expansion of the sector are the Reinsurance Special Purpose Vehicles (RSPV) Regulations that were published in 2013. These Regulations, modelled entirely on Solvency II standards, provide our insurance industry with the opportunity to develop new products through the creation of special risk vehicles for the provision of insurance-linked securities such as "Cat bonds".

The framework was further strengthened a few months ago through the rolling out of the Securitisation Cell Company Regulations. These provide RSPVs, along with other securitisation vehicles, with the ability to ring fence different securitisation transactions in different cells so as to further protect the assets backing the transaction and prevent related liabilities from spilling over to other transactions.

MFSa Chairman, Prof Joe Bannister, also addressed the Congress, detailing recent developments and changes from the regulator's perspective.

Report on Skill Gaps in the Financial Services Industry

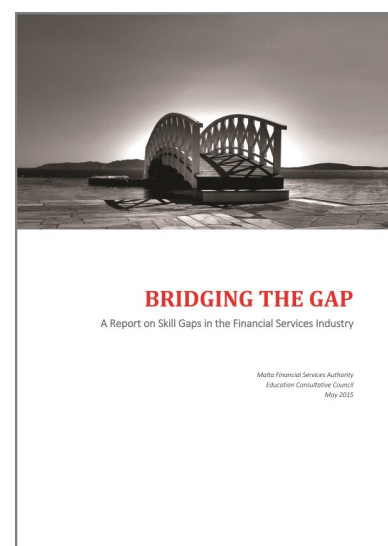
During the first quarter of 2015, the MFSa's Education Consultative Council (ECC) launched a survey aimed at identifying the skill gaps currently existing within the Financial Services Sector. The project consisted of a comprehensive questionnaire distributed among firms from six different segments, namely banks (credit institutions); financial institutions; insurance companies; insurance intermediaries; investment services companies; and trusts/ trust management companies.

Overall, the survey revealed the following significant findings:

- the most significant skill deficiency was in management skills;
- the highest incidence reported of skills needing attention was in compliance, fund administration and general regulatory requirements;
- provision of further training and development was the most common mitigation measure taken by firms against skill gaps.

Included in the report is a projected plan of actions which the ECC members have designed in order to address the identified skill gaps within the next two years.

The full Report is available on the [MFSa Website](#).



Consultation Process on the Conduct of Business

The MFSa is currently undergoing a consultation process with the industry regarding the draft version of a Conduct of Business Rulebook. The intention of this document is to set out the regulatory requirements of regulated persons insofar as their conduct vis-à-vis their clients is concerned.

Through this Consultation Paper, the Authority is engaging the industry to put forward its views on the first three draft Chapters in the Conduct of Business Rulebook which address the following issues: (1) Client Disclosure Requirements, (2) Product Governance and Oversight and (3) Conflicts of Interest. Secondly, it is seeking their views on the regulatory approaches which the MFSa proposed to adopt in relation to specific areas such as the selling of complex products, the application of the Rulebook to structured deposits, documents to be provided to clients in Maltese and English and so forth.

The MFSa is currently reviewing the chapters which cover other areas relating to Conduct of Business by regulated persons. Consultation on these chapters will follow in due course.

The consultation documents may be downloaded from the [MFSa Website](#). Feedback may be sent electronically to csu@mfsa.com.mt or alternatively by post to: The Director – Conduct Supervisory Unit, Malta Financial Services Authority, Notabile Road, Attard.

The Authority is welcoming feedback up to 10th July, 2015.

European Supervisory Authorities Press Releases issued during June 2015

European Securities and Markets Authority (ESMA)



15/06/2015 - [ESMA launches new strategy and publishes 2014 annual report](#)

European Banking Authority (EBA)



17/06/2015 - [EBA publishes 2014 Annual Report and Executive Summary](#)

17/06/2015 - [EBA issues amended technical standards on leverage ratio disclosure and reporting](#)

17/06/2015 - [EBA issues revised list of ITS validation rules](#)

European Insurance and Occupational Pensions Authority (EIOPA)



01/06/2015 - [EIOPA updates on the major risks to financial stability](#)

MFSA Licences - May 2015

NEW LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **HamBerMuc SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Redhedge SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Himalaya SICAV plc** in respect of one sub-fund.

Professional Investor Funds targeting Experienced Investors

- Collective Investment Scheme licence issued to **Cerro Torre SICAV plc** in respect of one sub-fund.

Alternative Investor Funds targeting Professional Investors

- Collective Investment Scheme licence issued to **Italo SICAV plc** in respect of one sub-fund.

UCITS

- Collective Investment Scheme licence issued to **AMA UCITS SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **AQA UCITS Funds SICAV plc** in respect of three sub-funds.

Investment Services

- Category 1A licence issued to **Templar EIS Limited**.
- Category 2 licence issued to **AQA Capital Limited**.
- Category 2 licence issued to **Framont & Partners Management Limited**.
- Category 2 licence issued to **Intrepid Capital Limited**.
- Category 3 licence issued to **Binary Investments (Europe) Limited**.
- Category 4A licence issued to **Reyl & Cie (Malta) Limited**.

Insurance

Insurance Undertakings

- Licence issued to **DARAG Malta Insurance and Reinsurance PCC Limited** to carry on business of insurance and reinsurance in thirteen classes of the general business.

Trustees and Fiduciaries

- Authorisation issued to **Aqua Trust Services Malta Limited** to act as Trustee or co-Trustee and to act as administrator of private foundations in terms of Article 43 of the Trusts and Trustees Act.

Pensions*Retirement Scheme Administrator*

- Certificate of Registration issued to **Elmo Pensions Limited**

Retirement Scheme

- Certificate of Registration issued to **Elmo International Retirement Plan**.

Company Service Providers

- Registration certificate issued to **International Management Services Limited**.
- Registration certificate issued to **Ganado Services Limited**.
- Registration certificate issued to **Willis Services (Malta) Limited**.
- Registration certificate issued to **Medina Management Services Limited**.

SURRENDERED LICENCES**Collective Investment Schemes***Professional Investor funds targeting Qualifying Investors*

- Surrender of licence issued to **Pluri-Invest SICAV plc** in respect of one sub-fund.

Professional Investor funds targeting Experienced and Qualifying Investors

- Surrender of licence issued to **FMG Funds SICAV plc** in respect of one sub-fund.

Investment Services

- Surrender of Category 2 licence issued to **Allanzia Asset Management Limited**.
- Surrender of Category 2 licence issued to **Altruid Systems Limited**.

Trustees and Fiduciaries

- Surrender of licence issued to **Capitol Nominee Services Limited**.

Registry of Companies - New Registrations - May 2015

Companies	Partnerships	Total
485	10	495

MFSA Announcements

MFSA Circulars

- 18/06/2015 - [Circular to the financial services industry on changes to the Investment Services Rules](#)
- 09/06/2015 - [Notice to Financial Services Licence Holders - Fourth Anti-Money Laundering Directive and the Revised Funds Transfers Regulation](#)
- 09/06/2015 - [Circular to Fund Managers required to submit Financial Return 2B as part of their regulatory reporting requirements](#)
- 05/06/2015 - [Circular on the General Reporting Instructions relating to the Funding Plans, Additional Liquidity Monitoring Metrics, and revised COREP& FINREP templates](#)
- 05/06/2015 - [Circular addressed to the Investment Services Industry – Common Equity Tier 1 \(CET 1\) instruments](#)
- 03/06/2015 - [Solvency II Circular for Insurance and Reinsurance Undertakings](#)

MFSA Consultation

Consultation Papers and Documents

- 25/06/2015 - [Request for feedback in relation to the Drawing up of a provisional list of the most representative services linked to a payment account and subject to a fee under the Payment Accounts Directive \(2014/92/EU\)](#)

MFSA Warnings

- 23/06/2015 - [Wire Prepay - http://www.wireprepay.com](http://www.wireprepay.com)

Foreign warnings received by MFSA can be viewed on [MFSA Website / Announcements / Warnings](#)

Forthcoming Events

4-7 October 2015 - [FERMA Risk Management Forum 2015](#)
([Venice](#))

24-26 November 2015 - [Commonwealth Business Forum 2015](#)



Training by members of the ECC:

- [Malta International Training Centre](#)
- [Malta Institute of Accountants](#)
- [Institute of Financial Services](#)
- [Institute of Legal Studies](#)
- [Institute of Financial Services Practitioners](#)
- [Malta Institute of Management](#)
- [Castille Institute](#)
- [PricewaterhouseCoopers](#)



You can keep up-to-date on our news and regulatory developments by regularly visiting our [website](#) or by subscribing to our [RSS feeds](#).

Notabile Road, Attard BKR 3000, Malta

Phone: +356 21 44 11 55; Fax: +356 21 44 11 89

www.mfsa.com.mt registry.mfsa.com.mt mymoneybox.mfsa.com.mt www.careersinfinance.mfsa.com.mt

