

# MFSA Newsletter

January 2013

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

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MALTA FINANCIAL SERVICES AUTHORITY



BANK ĊENTRALI TA' MALTA  
EUROSISTEMA  
CENTRAL BANK OF MALTA

## Joint Press Release by The Central Bank of Malta and the Malta Financial Services Authority on the establishment of a Joint Financial Stability Board

The Central Bank of Malta and the Malta Financial Services Authority (MFSA) have signed a Memorandum of Understanding (MoU) for the setting up of a Joint Financial Stability Board (JFSB).

The objective of this Board is to establish mechanisms of cooperation between the Bank and the Authority so as to formulate macro-prudential policy and to contribute to the safeguarding of the stability of the financial system in Malta. This policy is aimed at strengthening the resilience of the financial system and decreasing the build-up of systemic risks, thereby ensuring a sustainable contribution of the financial sector to economic growth.

In order to achieve this objective, the Board shall have a broad mandate which includes:

- identifying, monitoring and assessing any risks to financial stability;
- selecting relevant macro-prudential tools to mitigate these risks and formulating policy recommendations;
- assessing whether relevant macro-prudential tools could have cross-border implications;
- drafting press statements in respect to macro-prudential policy decisions.

The Board shall look into any issue of a macro or micro-prudential nature that may impact on domestic financial stability. Recommendations of a macro-prudential nature shall be considered for adoption by the Board of Directors of the Central Bank of Malta, while recommendations of a micro-prudential nature shall be considered for adoption by the Board of Governors of the MFSA.

The Board shall also ensure adherence to the recommendations and advice issued by the European Systemic Risk Board (ESRB) and will follow up on any other matters of a macro-prudential nature that the local authorities may need to communicate to the ESRB or other international and local authorities as necessary.

The Board will consist of five members, three senior officials from the Central Bank of Malta and two senior officials from the Malta Financial Services Authority. It will be chaired by the Central Bank of Malta. As a minimum, the Board will convene every quarter.

The setting up of the JFSB is in line with the recommendation adopted by the ESRB in December 2011 regarding the macro-prudential mandate of national authorities. This Recommendation (ESRB/2011/3) provides guiding principles on core elements which should be present in national macro-prudential mandates such as the objective of macro-prudential policy, the institutional arrangements within the national legislative infrastructure, the tasks, powers and instruments of the macro-prudential

authority, as well as transparency, accountability and independence aspects related to the macro-prudential authority. The ESRB proposed that this Recommendation would be implemented by EU Member States by not later than 1 July 2013.

For full details of the MoU establishing the Joint Financial Stability Board, please refer to the websites of the Central Bank of Malta or MFSA.

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## New US Dollar Funding Rules for Banks

A new MFSA Rule on US Dollar Funding by credit institutions came into effect on 1<sup>st</sup> January 2013. This Rule applies to all credit institutions licensed under the Banking Act 1994. MFSA Rule 02/2012 is modelled on the Recommendation of the European Systemic Risk Board on US Dollar Funding (ESRB/2011/2) published as Notice No. 2012/C 72/01 of the Official Journal of the European Union, which was approved by the General Board of the European Systemic Risk Board (ESRB) on 22 December 2011, in accordance with Regulation (EU) No. 1092/2010.

The aim of the ESRB Recommendation on US Dollar denominated funding is to address on-going strains in the US Dollar funding markets particularly since this is a material funding currency for certain credit institutions in the European Union. These strains may result in potential system-wide risks, in particular, material maturity mismatches between the US Dollar assets and liabilities of credit institutions, where short-term funding is used to finance longer term assets in the said currency.

MFSA Rule 02/2012 presents two sets of obligations, namely; general obligations applying to all credit institutions as defined in the Banking Act; and reporting obligations that apply to certain credit institutions whose levels of US Dollar funding are above a certain threshold in relation to their overall lending activity. The 'materiality' threshold shall be determined by the Authority as a percentage of a credit institution's total liabilities.

All credit institutions must comply with the following general obligations:

- An obligation to monitor US Dollar funding and liquidity risk as part of their overall monitoring assessment exercise of funding and liquidity positions in accordance with Banking Rule BR/05;
- An obligation to have in place risk strategies and policies, which determine their risk tolerance with respect to USD liquidity and funding;
- An obligation to have contingency funding plans in place to handle shocks in US Dollar funding.

The Authority shall moreover be identifying credit institutions it deems as having a material level of US Dollar funding based on data already available. These institutions would be required to fill in the template specified in Annex A to the Rule on a semi-annual basis, or as otherwise specified by the Authority. Credit institutions shall have one month from the end of each reporting period in which to send the template. Credit institutions with material US Dollar funding are also to include their respective risk management actions and procedures within their ICAAP report.

The MFSA Rule 02/2012 is available for download from the [MFSA website](#).

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## Industry update on the Alternative Investment Fund Management Directive ('AIFMD')

As part of the AIFMD implementation process, on Monday 7<sup>th</sup> January 2013, the MFSA organised an industry update session on the on the transposition and implementation process of the Directive. The event was attended by 145 delegates.

Four MFSA officials delivered a presentation during this event. This panel of speakers was chaired by Mr Mike Duignan, Director - Securities and Markets Supervision Unit. In his introductory speech, Mr Duignan invited the industry to provide the Authority with feedback to its consultation documents on the AIFMD.

Mr. Christopher Buttigieg, Deputy Director - Securities and Markets Supervision Unit delivered a presentation entitled “The AIFMD legislative framework and the Malta Implementation Process”. Mr Buttigieg provided the attendees with an overview of the:

- AIFMD legislative process at EU Level, including the status of the Level I Directive, the Level II Commission Delegated Acts and ESMA’s Technical Standards;
- Transitional Arrangements prescribed in Article 61(1) of the AIFMD for existing fund managers; and
- Transposition and implementation process in Malta, including practical implementation issues relating to this Directive.

Mr. Jonathan Sammut, Analyst - Securities and Markets Supervision Unit explained the Role of ESMA with regards to the Negotiations with Third Countries”. During the presentation Mr. Sammut provided an overview of:

- ESMA’s AIFMD co-operation agreements with third countries which cover all the situations prescribed in the Directive;
- The ESMA negotiation process with the relevant non-EU Supervisory Authorities;
- The current state of play with regards to MOUs with third countries.

Dr. Isabelle Agius, Regulatory Development Unit, was entitled “The MFSA Consultation Documents: Content and Way Forward”. Dr Agius provided the audience with an overview of:

- The consultation exercise which was launched by the Authority in September 2012 concerning the proposed amendments to the Investment Services Act and the new Regulations issued thereunder;
- Certain important amendments to the Investment Services Act; and
- The consultation exercise, which was launched by the Authority in December 2012 and which expired on the 7<sup>th</sup> January 2013, concerning the proposed amendments to the Investment Services Rules for Investment Services Providers.

Ms. Clare Farrugia Analyst – Authorisation Unit, provided an overview of the transitional arrangements in a presentation entitled “Transitional Arrangements for the upgrading of the licence of existing managers and self-managed schemes in terms of article 61 (1) of the AIFMD”. Ms. Farrugia explained the:

- Transitional provisions for the upgrading of the licence of existing managers and self-managed schemes in terms of Article 61(1) AIFMD;
- Key issues which must be taken into consideration by existing fund managers falling within the remit of the Directive; and
- the self-assessment Questionnaires which the Authority is preparing and which existing AIFMS and self-managed AIFs licenced prior to July 2013 and falling within the scope of the Directive will be required to complete.

A Q&A session followed the four presentations. During this session, the audience was informed that the Authority was planning to organise another session some time during February/March. All presentations are available for download from the MFSA Website through the following web-link: <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=287>

## **The changing nature of Corporate Governance following the Eurozone crisis**

### **Malta Institute of Directors Conference**

The Governor of the Central Bank of Malta (CBM), Professor Josef Bonnici, announced during the Institute of Directors Conference held at the Malta Financial Services Authority (MFSa) on January 17 that the CBM, in its capacity as the macro-prudential authority, has agreed with the MFSa to establish a Joint Financial Stability Board (JFSB) within a few days. The new Board will provide a mechanism to enhance the cooperation between the CBM and the MFSa for the assurance of financial stability in Malta. The objective is to strengthen the resilience of the financial system and to mitigate the build-up of systemic risk. The new Board will be made up of senior personnel from the MFSa and the CBM, and will mirror the model adopted by the European Systemic Risk Board (ESRB).

The ESRB is an independent body of the European Union and is part of the European System of Financial Supervision (ESFS), the purpose of which is to ensure the supervision of the Union's financial system. The ESRB is hosted and supported by the European Central Bank in response to the ongoing financial crisis. It is tasked with the macro-prudential oversight of the financial system within the Union in order to contribute to the prevention or mitigation of systemic risks to financial stability in the Union and to ensure a sustainable contribution of the financial sector to economic growth. Malta's JFSB will have a similar function in the local context.

Speaking at the Institute of Directors (IoD) Conference Prof. Bonnici said that strengthening the governance and oversight of the financial system is imperative to ensure stability and deliver confidence to the marketplace. IoD Chairman James Satariano welcomed the announcement saying that the new Board will enhance Malta's role as an international financial centre and business hub.

"IoD has been flying the flag for Corporate Governance in Malta since the turn of the century" says Mr. Satariano. "Financial services have become a cornerstone of our economy, with their contribution to Malta's GDP approaching 20%, financial services are in the spotlight like never before, and we are now an international financial centre, a hub for the industry in the Mediterranean. Our transparency and the quality of our governance is pivotal to success."

Mr. Satariano went on to add that, "The timing of Professor Bonnici's announcement, made during IoD's first Conference of 2013, demonstrates that Corporate Governance is certainly not standing still on the Maltese Islands and is fully in step with developments across Europe, the new JFSB will be responsible for supervision of stability within the financial system at the macro level, as well as oversight. The purpose of the oversight is to prevent emergence of systemic risks to Malta's financial stability and mitigate their impact as well as support financial sector consideration of macro-economic developments. It is quite clear from the speech made today by Bank of Valletta's Chairman, Frederick Mifsud-Bonnici, that this new oversight Board will be welcomed by all financial system stakeholders in Malta."

Speakers at the joint IoD/MFSa conference apart from Central Bank Governor Professor Josef Bonnici, and Chairman of Bank of Valletta plc. Mr Frederick Mifsud Bonnici, were Dr. Michael Xuereb, Director, MFSa Regulatory Development Unit and Dr. Anton Bartolo, Director of the MFSa's Enforcement Unit. The conference was moderated by Mr. Peter Barrett, who introduced the Conference themes and explained the context for the development of Corporate Governance within the jurisdiction to the 160 international and local delegates.

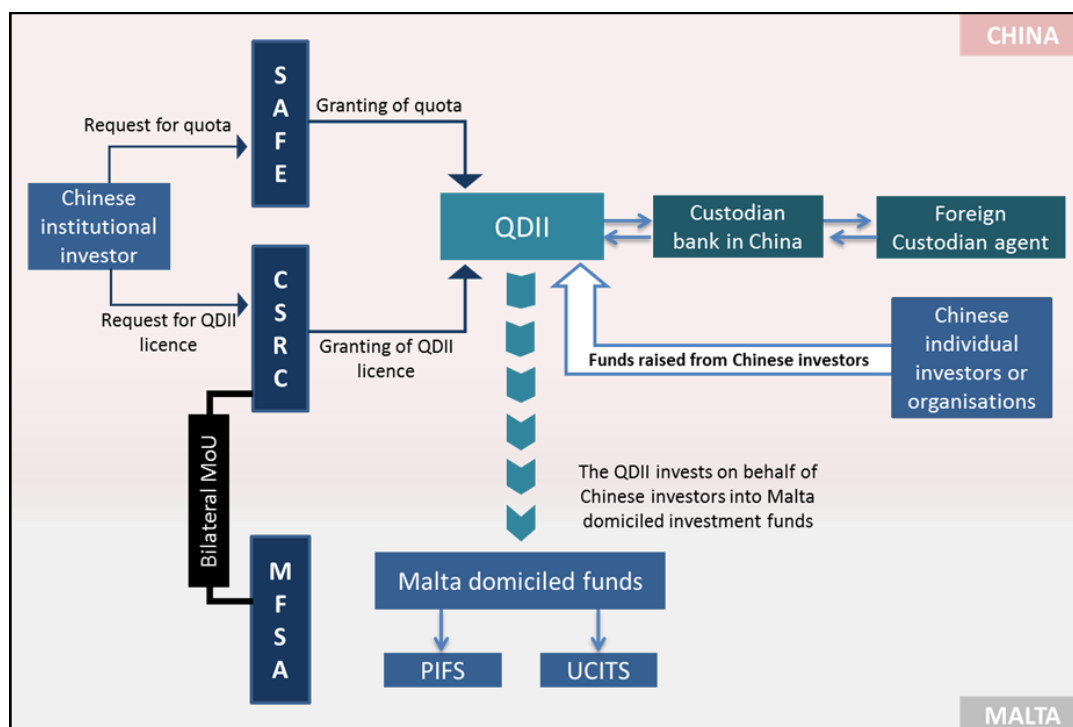
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## **Opportunity for the Fund Industry in Malta to tap Chinese Market**

Malta domiciled institutional investors licenced by the MFSa have the opportunity to sell investment funds to Chinese institutional investors. This is a result of a bilateral MoU on securities and futures regulatory cooperation signed on 26<sup>th</sup> January 2010 in Malta, with the MFSa and the China Securities Regulatory Commission (CSRC). A similar agreement was signed with the China Banking Regulatory Commission (CBRC). Chinese institutional investors must have a Qualifying Domestic Institutional Investor (QDII) status to be eligible to access the local market. The QDII status is a scheme relating to Chinese capital market outflows set up to allow authorised financial institutions of Chinese domiciliation to invest in overseas markets that hold a bilateral MoU with the Chinese regulatory Commission.

There are around a hundred Chinese institutional investors who have QDII status. QDIIs are authorised to invest on behalf of individual Chinese investors or organisations into investment funds authorised in recognised jurisdictions such as Malta. The Chinese regulatory Commissions have established investment scopes and thresholds for each QDII type by setting margins on currency trading and capital flows.

The following illustration highlights the main processes involved for a Chinese securities company or fund manager institutional investor to obtain QDII status, and the processes involved for a QDII to raise funds from Chinese investors to invest in securities outside China, taking Malta-based funds as an example.



#### Useful information:

- Chinese institutional investors, including commercial banks, securities companies, fund companies, insurance companies and trust funds, must hold a QDII licence from the respective Chinese regulatory Commissions, namely China Security Regulatory Commission (CSRC); China Banking Regulatory Commission (CBRC); or China Insurance Regulatory Commission (CIRC). The Chinese regulatory Commissions respectively set up limitations of investment scopes for each type of entity.
- Chinese institutional investors must also obtain a QDII quota at the State Administration of Foreign Exchanges (SAFE). China's law does not impose a specific limit on the investment quota that may be granted to QDIIs.
- A QDII may only invest in a foreign securities market where the relevant foreign regulatory authority has executed a bilateral MoU with the respective Chinese regulatory Commission: CSRC for QDII funds and collective schemes; CBRC for commercial banks or trust companies. In contrast, the CIRC adopts a general policy whereby overseas investments of insurance capital by insurance companies must be within mature global capital markets.
- A QDII must appoint a qualified bank domiciled in China as the custodian of its assets which will be responsible for managing the onshore accounts and supervising the investment activities.
- The custodian domiciled in China may appoint a foreign custodian agent to hold custody of overseas assets.
- QDIIs raise capital in China from individual Chinese investors and organisations to invest in overseas capital markets under the control of China's foreign exchange regulator.
- On behalf of the Chinese investors, a QDII may invest into Malta domiciled investment funds regulated by the MFSA, namely through Professional Investor Funds (PIFS) and UCITS funds.

The QDII program opens up MFSA regulated funds to one of the world's largest pools of private capital. This places Malta's financial services sector at the same level with major fund domiciles particularly in the European Union.

*The information contained in this article should in no way be construed as replacing professional advice. Anyone wishing to clarify any matter relating to the content of this article or require further information may contact the MFSA - [communications@mfsa.com.mt](mailto:communications@mfsa.com.mt)*

## ECB: Number of eurozone financial institutions down again in 2012



Jan 23 2013 By: Helen Burggraf, Contributing Editor, International Adviser

### "Malta bucks trend

Two countries bucked the downward trend in 2012, including Malta, which saw the number of monetary financial institutions operating within its borders rise by 3%, and Portugal, where the number grew by 0.6%."

Full article on [INTERNATIONAL ADVISER website](#)

## Guide to Relocation 2013 - Changing global environment highlights Malta's appeal - Simon Gray



*"One of the most striking developments in the European fund industry over the past five years has been the emergence of Malta as a credible and respected fund domicile and servicing centre."*

Full article on the [GLOBAL FUND MEDIA website](#)

## European Supervisory Authorities Press Releases

### European Banking Authority (EBA)



11 January 2013 - [ESMA and the EBA take action to strengthen Euribor and benchmark rate-setting processes](#)

23 January 2013 - [The EBA recommends major EU cross-border banking groups to develop recovery plans](#)

23 January 2013 - [Risk Assessment report of the European Banking System](#)

### European Securities and Markets Authority (ESMA)



21 January 2013 - [ESMA calls for improvements in disclosures related to goodwill impairment](#)

23 January 2013 - [ESMA sets out its 2013 CRA work programme](#)

### European Insurance and Occupational Pensions Authority (EIOPA)



28 January 2013 - [EIOPA launches the Long-Term Guarantee Assessment](#)

29 January 2013 - [EIOPA publishes its Report on the functioning of colleges of supervisors and the Action Plan 2013](#)

## MFSa Licences - December 2012

### LICENCES ISSUED

#### Collective Investment Schemes

##### *Professional Investor Funds targeting Qualifying Investors*

- Collective Investment Scheme licence issued to **Innocap Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **NBCG Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Meridon Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **KC Funds SICAV plc** in respect of two sub-funds.
- Collective Investment Scheme licence issued to **Himalaya SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **The Nascent Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **FMG Funds SICAV plc** in respect of one sub-fund.

##### *Professional Investor Funds targeting Extraordinary Investors*

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

#### UCITS

- Collective Investment Scheme licence issued to **Bryan Garnier Umbrella Fund SICAV plc** in respect of one sub-fund.

#### Trustees & Fiduciaries

- Authorisation issued to **Artio Trustees Limited** to act as a trustee and to provide other fiduciary services (including acting as an administrator of private foundations).

#### Insurance

##### *Insurance Undertakings*

- Licence issued to **Allcare Insurance Ltd** to carry on business of in fourteen classes of the general business.

### LICENCES SURRENDERED

#### Collective Investment Schemes

##### *Professional Investor Funds targeting Qualifying Investors*

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

#### Investment Services

- Surrender of Category 2 licence issued to **Swiss Settlements Fund Management Ltd**.
- Surrender of Category 2 licence issued to **Lembex Global Investments Ltd**.

**LICENCES EXTENDED****Collective Investment Schemes**

- Licence issued to **CieL European SICAV plc** was converted from a Professional Investment Fund targeting Experienced and Qualifying Investors to a Professional Investment Fund targeting solely Qualifying Investors.

**Financial Institutions**

- Extension of licence issued to **Abacus Holdings Limited** to include acting as an administrator of private foundations.
- Extension of licence issued to **Credence Holdings Limited** to include acting as an administrator of private foundations.

**Registry of Companies - New Registrations - December 2012**

Companies	Partnerships	Total
408	4	412

**MFSa Consultations**

**29/01/2013** - [Consultation on the proposed implementation of the Guidelines for Competent Authorities and UCITS Management Companies - Guidelines on ETFs and other UCITS issues](#)

**MFSa Circulars**

**08/01/2013** - [Circular to the financial services industry on the European Markets Infrastructure Regulation \('EMIR'\)](#)

**10/01/2013** - [Circular to the investment services industry regarding the Fourth Capital Requirements Directive \(CRD IV\) and the Capital Requirements Regulation \(CRR\) known together as the CRD IV Package](#)

**MFSa Notices**

**08/01/2013** - [Notice to Financial Services Licence Holders - International Sanctions](#)

**10/01/2013** - [Surrender of Licence by The Nascent Fund SICAV plc](#)

**15/01/2013** - [Surrender of Licences by Innocap Fund SICAV plc](#)

**15/01/2013** - [Surrender of Licences by NBCG Fund SICAV plc](#)

**18/01/2013** - [Surrender of Licences by VIP Select Funds SICAV plc](#)

**21/01/2013** - [Surrender of Licence by NEF Global Resources SICAV Ltd](#)

**21/01/2013** - [Surrender of Licence by NEF Nordic Power SICAV Ltd](#)

**21/01/2013** - [Surrender of Licence by NEF Funds SICAV Ltd](#)

**31/01/2013** - [Surrender of Licence by Celsius Funds SICAV plc](#)





## MFSA Listing Authority Announcements

**11/01/2013** - [Suspension of Listing - A25 Gold Producers Corp](#)

**14/01/2013** - [Extension of period of Suspension of Trading - Loqus Holdings plc Ordinary Shares €0.232937 \(MT0000150103\)](#)

**28/01/2013** - [Extension of period of Suspension of public offer - A25 Gold Producers Corp](#)

**29/01/2013** - [Extension of period of Suspension of Trading - Loqus Holdings plc Ordinary Shares €0.232937 \(MT0000150103\)](#)



## Warnings

**23/01/2013** - [MFSA Warning - CIB Malta - http://www.cib-malta.eu/secured/index.html](#)

Foreign warnings received by MFSA can be viewed on the [MFSA website](#).



## Forthcoming Events

**13 February 2013** - [MFSA Industry Update on the proposed amendments to the Trusts and Trustees Act and other related legislation](#)

**15 February 2013** - [The Chamber of Advocates and the Department of Commercial Law, University of Malta Seminar - The relevance of the civil law for commercial law practitioners \(with particular reference to company law, financial services and consumer law\)](#)

**14-15 March 2013** - [ESAFON - The 3rd Annual Malta Spring Fund Conference - UCITS – AIFMD – MiFID II - Implications for Funds, Managers, Service Providers](#)

### MFSA Education Consultative Council (ECC)

Training by members of the ECC:

- [Malta International Training Centre](#)
- [Institute of Financial Services](#)
- [Malta Institute of Accountants](#)



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The MFSA Newsletter is issued on a monthly basis by the MFSA Communications Unit, email: [communications@mfsa.com.mt](mailto:communications@mfsa.com.mt)

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