

MFSA Newsletter

April 2016

MFSA
MALTA FINANCIAL SERVICES AUTHORITY

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MFSA Consults on Conduct of Business Rulebook (Phase 2)

The MFSA has issued the second phase of the consultation procedure through the publication of a "Consultation document relating to the creation of a proposed Conduct of Business Rulebook" ([Ref. 04/2016](#)), which is aimed at setting out the regulatory requirements of Regulated Persons, insofar as their conduct vis-à-vis their clients, is concerned.

This follows the previous consultation undertaken by the MFSA on the 6th May 2015 for the first phase of the consultation procedure on the proposed Conduct of Business Rulebook ([Ref.04/2015](#)), which tackled the topics of: (1) Client Disclosures and Reporting; (2) Product Governance; and (3) Conflicts of Interest. The first phase of this consultation procedure was concluded on the 10th July 2015.

As indicated in the first phase of the consultation, the Conduct of Business Rulebook is addressed to persons licenced under the Investment Services Act (excluding custodians) and to persons carrying on insurance activities in terms of the Insurance Business Act or the Insurance Intermediaries Act (insurance undertakings and insurance intermediaries), and individuals who work with or advise such entities, as well as persons licenced as credit institutions under the Banking Act which sell or advise clients in relation to structured deposits, where applicable.

The purpose of this second phase of consultation is to obtain the industry's views on the following chapters in the proposed Conduct of Business Rulebook:

1. Selling Process and Practices (including Contractual Agreement with Clients)

2. Execution of Clients' Orders.

These draft rules are mainly a transposition of the relevant requirements set out in the relevant EU directives, as well as any relevant Level 2 measures. The MFSA is also closely following developments relating to Technical Standards being proposed by ESMA and EIOPA which could result in changes to the Conduct of Business Rulebook. This approach taken in drafting the Rulebook mirrors the one adopted at EU level, whereby cross-sectoral legislation is being promoted to ensure consistency in the financial markets. One should however pay close attention to the applicability provisions in each section of each chapter of the Rulebook.

A feedback statement will be issued by the MFSA on all the chapters of the proposed Rulebook, on conclusion of the entire consultation procedure, upon publication of the final Rulebook. Regulated Persons will be granted a transitional period to comply with requirements emanating from this new Rulebook. In the interim, during this transitional period, the MFSA would encourage effective preparation by the industry to ensure compliance with MiFID II and IDD, once applicable (foreseen for 2018).

The attention of the industry is drawn to the deadline for submission of feedback which is set to the 31st May 2016. In this respect, interested parties are kindly requested to submit any comments which they may have in writing on csu@mfsa.com.mt. Any queries or requests for clarification should be addressed to Dr Michelle Mizzi Buontempo (MMizziBuontempo@mfsa.com.mt), Dr Sarah Pulis (SPulis@mfsa.com.mt) or Ms Erika Farrugia (EFarrugia@mfsa.com.mt).

Industry players are strongly encouraged to provide their feedback to this consultation document within the stipulated timeframe.

MFSa consults on Insurance Rules

The MFSa has issued for consultation an amendment to Chapter 5 in Part B of the Insurance Rules issued under the Insurance Business Act, entitled *Valuation of assets and liabilities, technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and investment rules*.

The amendment will consist of an additional new paragraph 5.7.12, and an Annex to Chapter 5. The purpose of this Annex is to establish the minimum parameters within which authorised undertakings will be permitted to grant intra-group loans to undertakings or companies within its group. These amendments are available on the Consultation page on the MFSa website.

Any comments and feedback are to be addressed to the Insurance and Pensions Supervision Unit by email on ipsu@mfsa.com.mt. Interested parties are kindly asked to submit any comments in writing by not later than 2nd May 2016.

Publication of the Reinsurance Special Purpose Vehicles Regulations, 2016

The Reinsurance Special Purpose Vehicles Regulations, 2016 were published on the 19th April 2016, by [Legal Notice 130 of 2016 in the Government Gazette of Malta No.19,589](#). These Regulations revoke the Reinsurance Special Purpose Vehicles Regulations, issued in 2013 to transpose article 46 of Directive 2005/68/EC of the European Parliament and of the Council of the 16 November 2005 on reinsurance (the “Reinsurance Directive”).

The Reinsurance Directive has now been superseded by Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and its supplementing Regulations.

The Reinsurance Special Purpose Vehicles Regulations, 2016 have been issued in terms of Article 64 of the Insurance Business Act. These regulations implement Chapter XV of the Commission Delegated Regulation (EU) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); and Commission Implementing Regulation (EU) 2015/462 which lays down implementing technical standards with regard to the procedures for supervisory approval to establish special purpose vehicles, for the cooperation and exchange of information between supervisory authorities regarding special purpose vehicles as well as to set out formats and templates for information to be reported by special purpose vehicles in accordance with Directive 2009/138/EC. In particular, the Reinsurance Special Purpose Vehicles Regulations lay down conditions for authorisation of reinsurance special purpose vehicles as well as solvency requirements and reporting requirements within the framework of the aforementioned Commission Regulations. Furthermore these regulations clarify that in view of the fact that financial instruments issued by reinsurance special purpose vehicles are considered to be complex products, these types of instruments can only be sold to professional clients as defined in Annex II of Directive 2014/65/EU (the MiFID II Directive).

Any queries or requests for clarifications in respect of the above should be addressed by email on elofaro@mfsa.com.mt.

MFSa, MFIA hold training session on the Market Abuse Directive

The Malta Financial Services Authority (MFSa) and the Malta Forum for Internal Auditors (MFIA) recently organised a training session for industry focused on the Market Abuse Directive II (MAD II) and the Market Abuse Regulation (MAR).

The main focus of the training session was on the new requirements that will be brought about by the MAR and the relevant Technical Standards in July this year, particularly the new requirements on:

1. Market Sounding;
2. Persons Discharging Managerial Responsibilities (PDMRs);

3. Insider Lists; and
4. Suspicious Transaction and Order Reports (STORs).

The implementation of the Market Abuse Directive II, with respect to the criminal aspects of market abuse, was also discussed.

MAD II and MAR replace the original Market Abuse Directive (MAD) and widens its scope to include new markets and instruments that have developed since MAD entered into force. It also takes into consideration new market developments and practices such as high frequency and algorithmic trading and emission allowances trading.

Registry of Companies to participate in Business Registers Interconnection System

Officials from the Registry of Companies and the ICT Unit of the MFSa attended meetings in Brussels in April regarding the ongoing EU project which will set up a system of interconnection of business registers at EU level. The system is known as the Business Registers Interconnection System (BRIS).

When in place, BRIS will:

- Ensure access at EU level to information on companies registered in the Member States, and
- Enable, for the first time, the electronic communication between all EU business registers. Exchange information in relation to foreign branches and cross-border mergers of companies will also be possible.

The system will allow citizens, businesses and national authorities to search, via the e-Justice portal, for information filed by companies in the national registers. In addition, the new system will improve the communication between registers by allowing them to exchange trustworthy information on companies between each other.

It is planned that BRIS will go live in June 2017.

ESMA publishes Opinion on Key principles for a European framework on loan origination by funds

A mapping exercise of national practices carried out by ESMA has shown that loan origination by funds is allowed in a number of Member States but that not all States have a dedicated regime for the regulation of these types of funds.

The Action Plan for the establishment of a Capital Markets Union (CMU) had highlighted that the European Commission had intended to work with Member States and the European Supervisory Authorities to assess the need of a coordinated approach to loan origination by funds and the case for a future EU framework.

The Commission intends to consult on the elements of a European framework on loan origination in the second quarter of 2016 and had asked ESMA to provide input as to the key issues on which the consultation could focus. To contribute to the work done by the Commission ESMA has taken stock of work on loan origination already concluded by ESMA and National Supervisory Authorities and has provided input in the form of an [Opinion](#).

ESMA is of the view that the elements presented in this opinion should ideally form part of a harmonised European framework on loan origination. This could be achieved in different ways, for example through a legislative proposal or by way of an ESMA instrument supplementing the AIFMD.

In line with the Commission's request, the ESMA opinion focuses specifically on loan origination and does not cover other forms of lending by investment funds, such as acquisition of loan portfolios and other forms of loan participation by funds.

Notwithstanding this, ESMA is of the view that funds should provide credit under a suitable framework such that systemic risk is mitigated, and, in any case, is no higher than that posed by bank lending. The requirements of such a framework should also be appropriate to the specific characteristics of funds and fund management.

ESMA considers that in its work on a framework for loan origination, the Commission should look at the existing national approaches and regimes, as well as consider the exemptions for a number of fund types which are currently in place in Member States, such as for private equity funds, venture capital funds, or hedge funds.

A mapping exercise of national practices carried out by ESMA has shown that loan origination by funds is – partly or to the full extent – allowed in a number of Member States. Several Member States have set up bespoke frameworks for loan origination by funds domiciled in the respective jurisdiction, among them Germany, Ireland, Spain, Italy and [Malta](#). Furthermore, France recently consulted on changes to its investment management framework, with a view to introducing new regulation on loan origination by funds.

Under the Maltese Loan Fund Rules published on 2 April 2014 – “funds investing through loans” may only be structured as closed-ended funds and may only be marketed to professional investors. Minimum entry level for investment in these funds is EUR100,000. Additional requirements apply over and above AIFMD regime in areas such as credit assessment, liquidity provision, exposure limits and disclosure. Maltese loan funds may not lend to financial institutions or households. They are required to follow a variable NAV. Moreover, leverage and reuse of collateral not permitted.

Although the ESMA opinion, at this stage, is limited to loan origination funds, ESMA “is of the opinion that the European Commission should, in its work on CMU, assess the need for frameworks which harmonise the loan participation activities and variations on these activities that fall somewhere between loan participation and loan origination.”

An MFSA Q&A document addresses issues raised by loan participation other types of fund strategies that may fall to be regulated under the Loan Fund Rules. This is available through: <http://goo.gl/zbkW7Q>.

DBRS confirms Malta's 'A' credit rating

DBRS Ratings Limited has confirmed Malta's long-term foreign and local currency issuer ratings at A.

The report notes that the Maltese government meets its financing requirements domestically, and the core domestic banking sector is conservatively funded by domestic retail deposits. Malta's public debt composition and structure also provide support to its rating.



DBRS note that the average maturity of government bonds was 8.7 years, as of end of 2015, which compares favourably to other European economies. Moreover, a comparatively wealthy population and stable financial system have been reliable domestic sources of funding.

The agency adds that prudent lending practices prevented Malta from building up the financial imbalances that have afflicted other Eurozone countries. Private consumption growth has been described as quite resilient and overall economic performance has been strong.

European Supervisory Authorities Press Releases

European Securities and Markets Authority (ESMA)



- 01/04/2016 - [ESMA publishes UCITS remuneration guidelines](#)
- 11/04/2016 - [ESMA Opinion - Key principles for a European framework on loan origination by funds](#)
- 14/04/2016 - [ESMA announces EU-wide stress tests for CCPs](#)

European Insurance and Occupational Pensions Authority (EIOPA)



- 07/04/2016 - [ESAs finalise Key Information Documents for retail investors in the EU](#)
- 13/04/2016 - [EIOPA Publication of the Preparatory Guidelines on Product Oversight and Governance](#)
- 14/04/2016 - [EIOPA Recommends To Enhance Risk Assessment And Transparency Of Pension Funds](#)

European Banking Authority (EBA)



- 08/04/2016 - [EBA and EIB Group to promote discussion on synthetic securitisation and credit guarantees](#)
- 08/04/2016 - [ESAs identify vulnerabilities affecting the EU financial system and suggest actions to address the main risks](#)
- 13/04/2016 - [EBA publishes Report and recommends supervisory best practices on securitisation risk retention, due diligence and disclosure](#)
- 13/04/2016 - [EBA publishes Opinion on the application of customer due diligence measures to customers who are asylum seekers from higher-risk third countries or territories](#)
- 20/04/2016 - [EBA publishes final Guidelines for disclosing confidential information under the BRRD](#)
- 26/04/2016 - [EBA discloses first list of O-SIIs in the EU](#)
- 26/04/2016 - [EBA consults on disclosure of encumbered and unencumbered assets](#)

MFSA Circulars

- 01/04/2016 - [Solvency II Circular for Insurance and Reinsurance Undertakings](#)
- 01/04/2016 - [Solvency II Minimum Capital Requirement Reporting](#)
- 04/04/2016 - [Circular addressed to Listed Issuers - ESMA Report on Enforcement and Regulatory Activities of Accounting Enforcers in 2015](#)
- 12/04/2016 - [Circular on the amendment of the Commission Delegated Regulation \(EU\) 2015/35 on the taking-up and pursuit of the business of Insurance and Reinsurance \(Solvency II\)](#)
- 12/04/2016 - [Updated MAD Q&A on Disclosure of inside information related to Pillar II requirements and Investment recommendations](#)

- 13/04/2016 - [Circular addressed to Investment Firms and/or Applicants for an Investment Services Licence offering or intending to offer Financial Contracts for Difference \(CFDs\) and other speculative products](#)
- 15/04/2016 - [Circular to the financial services industry on changes to the Investment Services Rules following the transposition of the UCITS V Directive](#)
- 18/04/2016 - [Note for information on the amendments to Insurance Intermediaries Rule 1 of 2007](#)
- 26/04/2016 - [Circular to the financial services industry on the European Long-Term Investment Funds Regulation](#)
- 26/04/2016 - [Circular to Credit Institutions on AMM reporting and revised Supervisory Reporting Templates](#)
- 26/04/2016 - [Note for Information - Reinsurance Special Purpose Vehicles Regulations, 2016](#)

MFSa Warnings

- 08/04/2016 - [MFSa Warning - http://www.stock-binary.com](http://www.stock-binary.com)
- 28/04/2016 - [MFSa Warning - Global InterGold - https://www.globalintergold.com/gold/home.php](https://www.globalintergold.com/gold/home.php)

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

MFSa Consultations

- 01/04/2016 - [Consultation on amendments to Insurance Rules issued under the Insurance Business Act](#)
- 11/04/2016 - [Consultation - Conduct of Business Rulebook Phase 2](#)
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MFSA Licences - March 2016

NEW LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **Metatron Capital SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **PMG Special Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Lagonda Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **AUM Total Return Umbrella Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **Audentia Capital SICAV plc** in respect of three sub-funds.

Professional Investor Funds targeting Extraordinary Investors

- Collective Investment Scheme licence issued to **AUM Global Platform SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Nexum SICAV plc** in respect of one sub-fund.

Alternative Investment Funds targeting Professional Investors

- Collective Investment Scheme licence issued to **Comino III Umbrella Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Bastion Wealth Strategies SICAV plc** in respect of one sub-fund.

Alternative Investment Funds targeting Retail Investors

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

UCITS

- Collective Investment Scheme licence issued to **I4G UCITS Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Flexagon UCITS Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Aurora SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Highland SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **AQA UCITS Funds SICAV plc** in respect of one sub-fund.

Investment Services

- Category 2 licence issued to **Altruid Systems Limited**.
- Category 2 licence issued to **RMS FinGroup (Malta) Limited**.
- Category 2 licence issued to **Private Value Asset Management Limited**.
- Category 2 licence issued to **Flexagon Capital Management Limited**.
- Category 3 licence issued to **TMS Brokers Europe Limited**.

Insurance

Insurance Brokers

- **Templar EIS Limited** has been granted enrolment in the Brokers List.

Pensions

Back office Administrator

- Recognition certificate issued to **Optimus Pension Administrators Limited**.

Trustees and Fiduciaries

- Authorisation issued to **AlleyBe Malta Limited** to provide trustee and other fiduciary services including acting as administrators of private foundations.

Company Service Providers

- Registration certificate issued to **Living Capital Corporate Services Limited**.
- Registration certificate issued to **Corpserv Limited**.
- Registration certificate issued to **SCS Corporate Solutions Limited**.
- Registration certificate issued to **AON Services (Malta) Limited**.
- Registration certificate issued to **IDS Fund Services Malta Limited**.
- Registration certificate issued to **Hand Limited**.
- Registration certificate issued to **Astra Consulting Malta Limited**.
- Registration certificate issued to **Nouv MT Corporate Limited**.
- Registration certificate issued to **Act Advisory Services Limited**.
- Registration certificate issued to **Zeta Corporate & Management Services Limited**.
- Registration certificate issued to **JMKK Services Limited**.
- Registration certificate issued to **Integra Private Wealth Limited**.

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

- Surrender of licence issued to **PerSYSTEMcy SICAV plc** in respect of two sub-funds.
- Surrender of licence issued to **LL Global Fund Series SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Resco Funds SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **MCM Global Opportunities Fund SICAV plc** in respect of two sub-funds.
- Surrender of licence issued to **Core Strategy SICAV plc** in respect of two sub-funds.

Alternative Investment Funds targeting Qualifying Investors

- Surrender of licence issued to **CAM Fund Series SICAV plc** in respect of one sub-fund.

UCITS

- Surrender of licence issued to **Calamatta Cuschieri Funds SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Capital Strategy Funds SICAV plc**.
- Surrender of licence issued to **Invictus SICAV plc** in respect of one sub-fund.

Insurance*Insurance Brokers*

- Surrender of licence issued to **Ark Insurance Brokers Limited**.

EXTENDED AND REVISED LICENCES**Collective Investment Schemes**

- Licence issued to **Hedge Invest Global Holdings SICAV plc** was converted from Professional Investor Fund to Alternative Investment Fund.
- Licence issued to **Hedge Invest Specialist Selection SICAV plc** was converted from Professional Investor Fund to Alternative Investment Fund.

Investment Services*AIFMs*

- Revision of licence issued to **GWM Asset Management (Malta) Limited** to act as a full Alternative Investment Fund Manager.

Registry of Companies - New Registrations - March 2016

Companies	Partnerships
463	7

Forthcoming Events

May 4-5 - [2016 International Financial Crime Forum](#)



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](#)
- [Malta College of Arts, Science and Technology \(MCAST\)](#)
- [Faculty of Economics, Management & Accountancy \(The University of Malta\)](#)
- [Faculty of Banking and Finance \(The University of Malta\)](#)

*Communications to be addressed to:
The Secretary,
Educational Consultative Council,
MFSa,
Notabile Road,
Attard.*



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



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