

MFSA Newsletter

April 2015

MFSA
MALTA FINANCIAL SERVICES AUTHORITY

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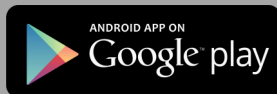
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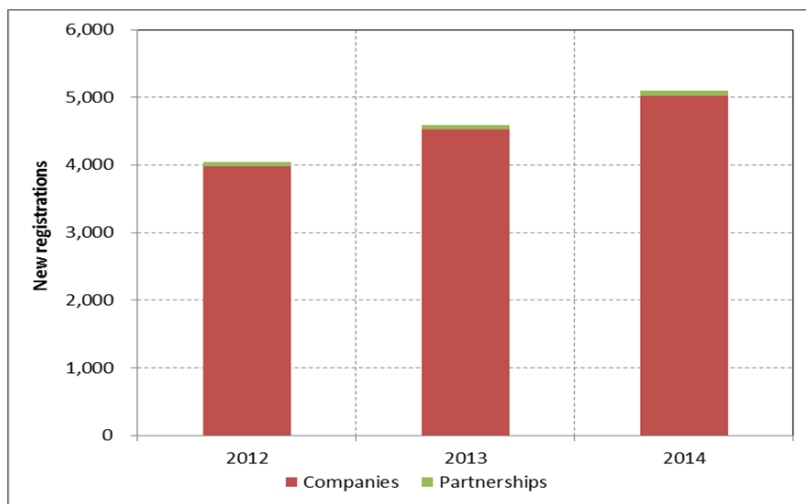
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New company registrations top 5000 mark

5,019 new companies were registered in the Registry of Companies in 2014. This represents an increase of 10.8 per cent over the previous year. 82 new partnerships were also registered which is also an increase over previous years.

Chart 1: New registrations (2012 – 2014)



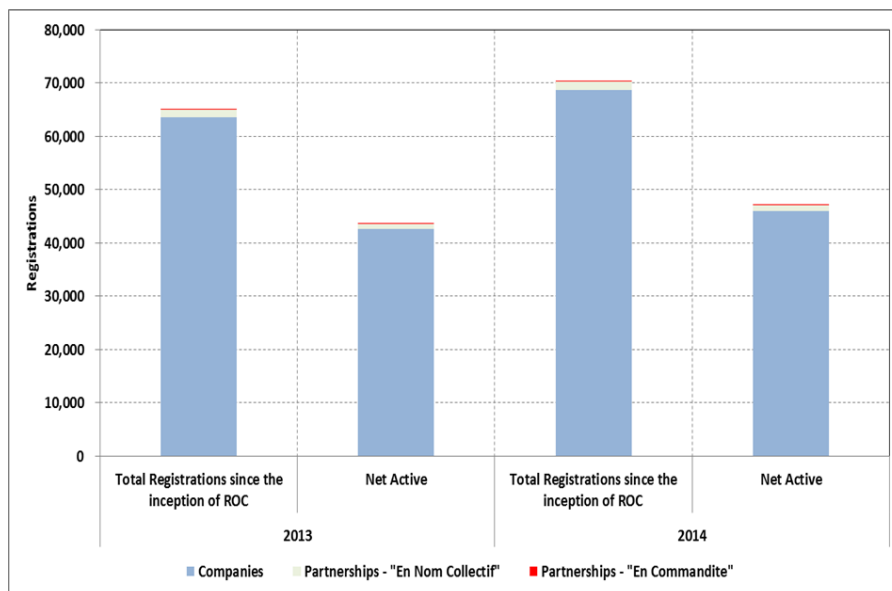
Source: Malta Financial Services Authority.

A 1.5 percent decline in the number of company liquidations was also registered, placing the total number of companies placed into liquidation at 1,171. 191 company mergers were carried out during the year, a decline of nine per cent from the previous year.

Total Registrations and Active Registrations

There were 68,676 companies, 1,514 partnerships - "En Nom Collectif" and 126 partnerships - "En Commandite" on the register at the end of 2014. Of these 46,039 companies were considered active, while the number of active partnerships was just over 1000. This represents an increase of eight per cent, 3.7 per cent and 30.1 per cent respectively when compared with the previous year end.

Chart 2: Total registrations against net active registrations (2013 – 2014)



Source: Malta Financial Services Authority.

Company Redomiciliation

During 2014, 85 companies transferred their domicile to Malta in terms of the Continuation of Companies Regulations under the Companies Act. Seventy five per cent of these came from Non-EU countries while the remaining 25 per cent were from EU countries. There were 16 outward re-domiciliations during the year.

Table 1: Inward redomiciled companies (2012 – 2014)

	Total redomiciled companies
2012	68
2013	111
2014	85

Thirty three per cent of the redomiciled companies in 2014 were involved in property activities, 18.8 per cent were private investment companies and 14.1 per cent were holding companies.

DBRS Credit Rating agency assigns Malta A Rating

DBRS, a Canada-based credit ratings agency has assigned an A rating to Malta, reflecting “strong” growth performance. This is the first credit rating allocated by Dominion Bond Rating Service, DBRS, and all key areas of the economic performance are rated as stable.

DBRS noted that Malta “did not generate the financial imbalances that have plagued other eurozone periphery countries. Malta has benefited by strengthening fiscal, monetary and financial policy institutions in line with EU and eurozone rules”.

The expansion of trade and travel links with Europe has provided a significant boost to Malta’s growth prospects. Rising employment generated by trade, tourism and the financial sector have increased national income and contributed to rising property values.

Maltese households enjoy high levels of savings and limited leverage, a further section of the report noted. Real estate values rose dramatically in the decade before the global financial crisis, but without an excessively large increase in household financial liabilities. Although Malta’s small market displays a low level of financial “sophistication” and its predominantly family-owned businesses have limited access to capital, this has also prevented the emergence of financial imbalances, positively concludes DBRS’ report.

Feedback Statement issued further to MFSa Consultation on the proposed amendments to the Insurance Business Act and Insurance Intermediaries Act

On the 22nd December 2014, the MFSa issued a Consultation Document on the proposed amendments to the Insurance Business Act (Cap.403) and on the consequential amendments to be carried out to the Insurance Intermediaries Act (Cap. 487) in order to retain consistency between the two Acts.

The purpose of the Consultation document was to highlight the main changes to be carried out to the Insurance Business Act as a consequence of transposing the provisions of 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 (recast) (the “**Solvency II Directive**”) and Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1060/2009, (EU) No 1094/2010 and (EU) No 1095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (the “**Omnibus II Directive**”).

Further to this Consultation Document, the MFSa has issued a [feedback statement](#) on the comments received in relation to the proposed amendments to the Insurance Business Act and Insurance Intermediaries Act.

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

Thematic Reviews – Corporate Governance of Authorised Trustees & other Fiduciaries

The Malta Financial Services Authority is committed to continuously seek to enhance its supervisory approach. The supervision of the trust and fiduciary services industry, carried out by the Malta Financial Services Authority through the Conduct Supervisory Unit, is primarily effected through desk-based reviews of information received and on-site visits.

As part of these desk-based reviews, the Conduct Supervisory Unit has recently issued a thematic questionnaire to a selected sample of authorised entities within the trust and fiduciary services industry. The main purpose of this questionnaire is two-fold: to attain a better understanding of the current market conditions within this industry and to assess the current and possible emerging risks. The questionnaire focuses primarily on governance structures within the authorised entities. In addition, the questionnaire also relates to the general operations, business continuity, record keeping, conflicts of interest, insurance cover, risk assessment and the efficiency of the board of directors. Authorised entities selected to participate in this review have until the 8th May 2015 to complete the questionnaire.

Any queries with regards to the thematic review are to be addressed to Dr Michelle Mizzi Buontempo – Director, Conduct Supervisory Unit or Ms Joanne Farrugia Galea and/or Mr Matthew Scicluna by mail and/or email on csu@mfsa.com.mt.

Consultation Procedure – Conduct of Business Rulebook

Reference is made to the consultation document regarding the “*Proposed Conduct of Business Rules for the Enhanced Protection of Customers in Investment Services*” ([Ref.03/2014](#)) which was issued by the MFSA for consultation on 27th January 2014. In the meantime, as from 1st January 2015, Dr. Michelle Mizzi Buontempo was appointed as director of Conduct Supervisory Unit. This newly set up Unit has been tasked with the setting up and the implementation of the regulatory framework, aimed at securing appropriate consumer protection in financial services through a supervisory regime seeking to address potential or emerging risks for financial services consumers. The Unit shall also endeavour to strengthen the responsibilities of regulated persons in treating customers fairly. To achieve this end, a Conduct of Business Rulebook is currently being drafted setting out the regulatory requirements of regulated persons insofar as their conduct vis-à-vis their clients, is concerned.

The proposed Conduct of Business Rulebook will deal with a number of matters, namely the following:

1. Client Disclosures and Reporting
2. Product Governance
3. Conflicts of Interest
4. Selling Process and Practices
5. Contractual Agreement with Retail Clients
6. Execution of clients’ orders
7. Governance of Regulated persons

The consultation procedure in relation to the proposed Conduct of Business Rulebook will take place over two phases. In the first week of May, the MFSA will enter into the first phase of this consultation procedure as it will be issuing a consultation document dealing with the first three topics: (1) Client Disclosures and Reporting; (2) Product Governance; and (3) Conflicts of Interest. This consultation document will be aimed at obtaining the industry’s views on the regulatory approaches which the MFSA is proposing to adopt in relation to specific areas as well as any comments or feedback in relation to the above-mentioned three topics. The second consultation document addressing the remaining topics, will also eventually be issued by the MFSA.

It should be noted that the Rulebook will be addressed to persons licensed 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 licensed as credit institutions under the Banking which sell or advise clients in relation to structured deposits, where applicable. Furthermore, following the issuance of this consultation document, the MFSA also intends to organise workshops for industry players in order to provide further guidance and clarifications as may be required. Industry players are strongly encouraged to follow this consultation procedure and provide their feedback within the stipulated timeframes.

Update on the Transposition of the CRD with respect to Credit Institutions

The 2008 financial crisis revealed vulnerabilities in the regulation and supervision of the banking system at both a global and a European level, leading to the review of the capital adequacy standards of the Basel Committee on Banking Supervision (“the BCBS”). As a result, in December 2010, the BCBS issued new global regulatory standards on bank capital adequacy and liquidity, which are collectively referred to as Basel III. The EU implemented Basel III into its legal framework through, inter alia, Directive 2013/36/EU (“the CRD”) and Regulation (EU) No 575/2013 (“the CRR”), together known as the CRD IV package, which form part of a single set of harmonised prudential rules referred to as the Single Rule Book. The CRD IV package, which became applicable as of the 1st of January 2014, deals with some of the vulnerabilities shown by credit institutions and investment firms during the financial crisis, namely, the insufficient level of capital, both in quantity and in quality, and sets stronger prudential requirements for credit institutions and investment firms, requiring them to keep sufficient capital reserves and liquidity. Mainly as a result of the financial crisis, banks and investment firms may not all have had sufficient amounts of capital, and the capital they actually had was sometimes of poor quality as it was not readily available to absorb losses as they materialised. Moreover during the financial crisis, public funds had to be used to support various EU institutions to prevent them from defaulting. The CRD IV package makes EU banks and investment firms more solid and strengthens their capacity to adequately manage the risks linked to their activities, and absorb any losses they may incur in doing business.

The provisions of the CRD with respect to credit institutions were transposed into local legislation mainly through the amendment of the Banking Act (Chapter 371 of the Laws of Malta) (“the Act”), as well as through the introduction of various legal notices issued thereunder, which entered into force on the 10th of April 2015. The main amendments made to the Act include changes with respect to the role and composition of the Board of Directors of credit institutions which are considered significant in terms of size, internal organisation and the nature, scope and complexity of their activities, the introduction of the requirement for credit institutions to establish appropriate procedures for employees to report breaches internally and the need to consider the preparation of a recovery plan for situations where such institutions experience a significant financial deterioration. Furthermore, the provisions on large exposures, own funds and capital adequacy have been repealed from the Act, since these are now provided for in the CRR, which is directly applicable, whereas the provisions on supervision on a consolidated basis, as well as the provisions on the supervisory review and evaluation process have also been removed from the Act and are being more comprehensively dealt with in the Banking Act and Investment Services Act (Supervisory Consolidation) Regulations, 2014 and the Banking Act (Supervisory Review) Regulations, 2015, respectively.

Similarly, the provisions relating to criminal offences and administrative penalties have been revised, with administrative penalties being more comprehensively dealt with in the Administrative Penalties, Measures and Investigatory Powers Regulations, 2015, whereas the provisions relating to the right of establishment and the freedom to provide services are being provided for in the European Passport Rights for Credit Institutions Regulations, 2015. In addition, the options and discretions taken by Malta with respect to the provisions of the CRR have been established in the CRR (Implementing and Transitional Provisions) Regulations, 2015, whereas in view of the provisions on capital adequacy which are now provided for in the CRR, the Banking Act (Capital Adequacy) Regulations, 2008 have been repealed.

Moreover, pursuant to the entry into force of the CRD IV package, a number of Banking Rules were repealed or amended. In particular, Banking Rules BR/02/2011, BR/03/2012, BR/04/2013 and BR/08/2012 on large exposures, own funds, capital requirements and capital adequacy, respectively, have been repealed since such provisions are being catered for in the CRR, which is directly applicable, whereas Banking Rule BR/10/2013 on supervision on a consolidated basis has been repealed since such provisions are being provided for in the Banking Act and Investment Services Act (Supervisory Consolidation) Regulations, 2014. Furthermore, Banking Rule BR/07/2014 on the publication of annual reports and audited financial statements has been amended to cater for the provisions of the CRD on country-by-country reporting and public disclosure by credit institutions, Banking Rule BR/12/2015 has been brought in line with the provisions of the CRD on the supervisory review and evaluation process, the internal capital adequacy assessment process, governance and remuneration, whereas Banking Rule BR/15/2015 on capital buffers has been introduced in order to partly transpose the provisions on capital buffers in the CRD. Banking Rule BR/15/2015 is complementary to Directive No. 11 of the Central Bank of Malta on Macro-Prudential Policy, which also transposes, in part, the provisions on capital buffers in the CRD.

1—Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

2—Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

Industry Updates

Industry Update – MiFID II— ESMA Consultation Papers

Consultation Paper on draft guidelines on complex debt instruments and structured deposits

Article 25(10) of Directive 2014/65/EU (MiFID II) requires ESMA to develop guidelines for the assessment of the complexity of:

- (i) Bonds, other forms of securitised debt and money market instruments incorporating a structure which makes it difficult for the client to understand the risk involved; and
- (ii) Structured deposits incorporating a structure which makes it difficult for the client to understand the risk of return or the cost of exiting the product before term.

ESMA has developed draft guidelines on complex debt instruments and structured deposits. The Consultation Paper also covers the concept of embedded derivative for debt instruments. These guidelines are intended to enhance investor protection and are important for the correct classification of MiFID debt instruments (bonds, securitised debt and money market instruments) and structured deposits as either 'complex' or 'non-complex' for the purposes of Article 24(4) of MiFID II.

The consultation document on complex debt instruments and structured deposits can be accessed from the following link: http://www.mfsa.com.mt/pages/readfile.aspx?f=/files/LegislationRegulation/regulation/securities/MiFID/2015-610_cp_mifid_guidelines_complex_products.pdf

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. All contributions should use the response form, which can be accessed on the following link: <http://www.esma.europa.eu/consultation/77824/response>. All contributions should be submitted online.

The consultation period will be open until **15 June 2015**. ESMA expects to publish final guidelines in Q4 2015.

Consultation Paper on draft guidelines for the assessment of knowledge and competence

Article 25(9) of MiFID II requires ESMA to develop guidelines specifying criteria for the assessment of knowledge and competence of the investment firm's personnel giving investment advice or information about financial instruments, investment services or ancillary services to clients on behalf of the investment firm to fulfil their obligations under Article 24 and Article 25.

ESMA has developed draft guidelines on certain aspects of MiFID II for the assessment of knowledge and competence. ESMA considers that these guidelines will establish a knowledge and competence framework that will set principles for individuals in MiFID firms that give investment advice or information about financial instruments, investment services or ancillary services to clients on behalf of the investment firm.

The consultation document can be accessed from the following link: http://www.mfsa.com.mt/pages/readfile.aspx?f=/files/LegislationRegulation/regulation/securities/MiFID/2015-753_cp_mifid_guidelines_on_knowledge_and_competence.pdf

The consultation will be open until 10 July 2015. Thereafter, ESMA will consider the responses and expects to publish final guidelines in Q4 2015.

Should you have any queries regarding the above, please do not hesitate to contact: Ms Sara Antonia Borg, Tel: 25485451; saborg@mfsa.com.mt.

European Supervisory Authorities Press Releases issued during April 2015



European Securities and Markets Authority (ESMA)

27/04/2015 - [ESMA publishes updated EMIR Q&A – focus on reporting](#)

23/04/2015 - [ESMA consults on draft guidelines specifying criteria for the assessment of knowledge and competence in MiFID II](#)

22/04/2015 - [ESMA is seeking information on new developments in virtual currency investment](#)

01/04/2015 - [ESMA launches centralised data projects for MiFIR and EMIR](#)

01/04/2015 - [ESMA publishes updates to Q&As on the implementation of the European Markets Infrastructure Regulation \(EMIR\)](#)

01/04/2015 - [ESMA publishes an update of its list of central clearinghouses \(CCPs\)](#)



European Banking Authority (EBA)

17/04/2015 - [EBA reviews work of EU colleges of Supervisors for cross-border banking groups](#)



European Insurance and Occupational Pensions Authority (EIOPA)

14/04/2015 - [EIOPA publishes Opinion providing practical recommendations on internal models](#)

MFSA Licences - March 2015

NEW LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **Open Door SIVAC plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Pilatus SIVAC plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **HFH SIVAC plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Magiston Funds SIVAC plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Paragon SIVAC plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Malta IFP SIVAC plc** in respect of one sub-fund.

Professional Investor Funds targeting Extraordinary Investors

- Collective Investment Scheme licence issued to **Sunshine Fund (Malta) SICAV Limited** in respect of one sub-fund.

Alternative Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **CAM Fund Series SIVAC plc** in respect of one sub-fund.

UCITS

- Collective Investment Scheme license issued to **PSG Global Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme license issued to **PSG International Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme license issued to **Eiger SICAV plc** in respect of one sub-fund.

Investment Services

AIFMs

- Category 2 licence issued to **Heartland Investment Management Limited**.

Trustees and Fiduciaries

- Authorisation issued to **DCTS (Malta) Limited** to provide fiduciary services which do not include acting as a Trustee.

Company Service Providers

- Registration certificate issued to **Marsh Corporate Services Malta Limited**.
- Registration certificate issued to **SMM Consultancy Services Limited**.
- Registration certificate issued to **JTC (Malta) Limited**.
- Registration certificate issued to **Geofocus Solutions plc**.
- Registration certificate issued to **RiskCap International Limited**.

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

- Surrender of licences issued to **The Nascent Fund SICAV plc** in respect of two sub-funds.
- Surrender of licence issued to **DTMR Management SICAV plc** in respect of one sub-fund.
- Surrender of license issued to **Marlon Fund SICAV plc**.
- Surrender of licence issued to **Meltemi Capital SICAV plc**.

UCITS

- Surrender of license issued to **Celsius Global Funds SICAV plc** in respect of one sub-fund.

Pensions*Retirement Scheme*

- Termination of registration of **The Falcon Plan**.

Retirement Scheme Administrator

- Termination of registration of **Abacus Corporate Services Limited**.

REVISED LICENCES**Investment Services***AIFMs*

- Revision of licence issued to **SphereInvest Group Limited** to act as an Alternative Investment Fund Manager.

Registry of Companies - New Registrations - March 2015

Companies	Partnerships	Total
509	9	518

MFSA Announcements

MFSA Circulars

- 22/04/2015** - [Notice to Financial Services Licence Holders - MONEYVAL public statement concerning Bosnia and Herzegovina](#)
- 22/04/2015** - [Circular to credit institutions on the Supervisory Reporting Requirements Webpage and the Draft ITS on Supervisory Reporting](#)
- 20/04/2015** - [Circular on the conditions under which credit institutions are permitted to include interim or year-end profits in Common Equity Tier 1 \(CET1\) capital](#)
- 10/04/2015** - [Circular in relation to the publication of \(i\) Frequently Asked Questions \(“FAQ”\) document on the reporting obligations applicable to AIFMs under Articles 3 and 24 of the AIFMD and \(ii\) an Update on Frequently Asked Questions Document on the AIFMD](#)
- 08/04/2015** - [Note of Information - Insurance Business \(Phasing-in\) Regulations, 2015 and Insurance Rule 33 of 2015 - Phasing-in measures for Solvency II implementation](#)

MFSA Consultation

Consultation Feedback Statements

- 22/04/2015** - [Feedback Statement issued further to MFSA Consultation on the proposed amendments to the Insurance Business Act and Insurance Intermediaries Act](#)

MFSA Warnings

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

Forthcoming Events

20-21 May 2015 - [FinanceMalta 8th Annual Conference](#)

**MALTA INTERNATIONAL
RISK CONGRESS 2015**

1-2 JUNE, 2015
HILTON, MALTA



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



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](#)



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