

MFSA Newsletter

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MFSA
MALTA FINANCIAL SERVICES AUTHORITY

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

Listing Rules for the European Wholesale Securities Market

On 2nd August 2012 the Listing Authority issued a circular explaining the amendments made to the Listing Rules as well as the European Wholesale Securities Markets Listing Rules as a result of the transposition of Directive 2010/73/EC amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market.

The following is a summary of the main changes made to the Listing Rules:

- increase in the exemption threshold from €50 million to €75 million in the case where credit institutions issue debt securities in a continuous or repeated manner over a twelve month period;
- the introduction of the concept of 'key information' to be included in the prospectus;
- increase in the threshold for exemption from producing a summary note from €50,000 to €100,000;
- clarification as to what information should be included in the Base Prospectus as opposed to the information which may be included in the Final Terms and that Final Terms cannot be used to supplement Base Prospectus;
- clarification as to the investor's right to withdraw his acceptance of an offer when a supplement is issued;

- creation of a proportionate disclosure regime (The specific requirements of the proportionate disclosure regime have been set out in Level 2 legislation, namely the Delegated Regulation amending Regulation 809/2004 which Delegated Regulation came into effect on the 1st July 2012);
- validity of the prospectus linked to the date of approval rather than the date of publication;
- increase in the threshold for exemptions from certain reporting requirements, namely the requirement to publish annual accounts, half-yearly and interim management accounts, from €50,000 to €100,000.

The revised Listing Rules and the revised Listing Rules for the European Wholesale Securities Market became effective as from the 30th July 2012.

Insurance and Pensions Supervision - Solvency II - Guidance Paper on Risk Management

On 6th August 2012, the Insurance and Pensions Supervision Unit issued another guidance paper on the System of Governance requirements, this time addressing an important key function - Risk Management. This function, which forms part of the Pillar 2 requirements, deserved a separate paper in view that the requirement for a robust Risk Management System (RMS) sustains much of the proposed Solvency II regime.

The scope behind this guidance paper is to provide insurance and reinsurance undertakings with a detailed perspective of the RMS requirements and to continue to provide them with the necessary support in their preparations for the Solvency II implementation.

It was felt necessary that the paper re-visits the crucial general governance requirements which were already discussed in the previous guidance paper. These are:

- i. the responsibilities of the board of directors;
- ii. the regular review of all key functions relating to the system of governance by the board of directors ;
- iii. the importance of key functions being kept operationally independent; and
- iv. the principle of proportionality; reminding undertakings that this should be always kept in mind when considering the various aspects addressed in this paper.

The paper then continues by addressing the three core areas of Risk Management:

i) Risk Management System (RMS)

The section explains the aim of a RMS and the essential components of a RMS. The risk areas to be covered by the RMS are then addressed followed by the obligation of undertakings to document the identification, measurement and assessment of such risk areas. This section also tackles the integration of RMS with the internal model (whether full or partial) to be used and the requirement of undertakings employing stress testing as a tool in their risk assessment process.

ii) Risk Management Policy (RMP)

The features of the RMP are discussed in the paper together with a detailed explanation of what an undertaking needs to consider as a minimum with regards to the integration of a number of sub-policies with the undertaking's RMP. This section of the paper also addresses other risks in addition to the risks covered by the calculation of the Solvency Capital Requirement and to the other risk areas referred to in the sub-policies.

iii) Risk Management Function (RMF)

This section explains what a RMF is and what it is intended to achieve. The use of internal models is addressed in this section in view that tasks of the RMF include the assessment of such models as a tool of risk management and as a tool to calculate the undertaking's Solvency Capital Requirement. In addition to this, the RMF is also responsible for the on-going appropriateness of the design and operation of internal models in order to ensure that they will continue to reflect the risk profile of the undertaking.

Although the previous guidance paper on the System of Governance issued on 18 January 2012 already addressed the issue of Outsourcing, it was felt necessary to touch lightly on this subject again in view that undertakings might decide to outsource the Risk Management Function. They have been reminded that the board of directors still remain responsible of oversight of and accountability for such function. Undertakings were also reminded about their obligation to notify MFSa in a timely manner prior to outsourcing any critical/important functions.

In view that the tasks performed by the Risk Management Function and Actuarial Function are strongly linked, it was felt necessary that this paper also addresses this topic. However, the Actuarial Function was lightly touched upon since the previous guidance paper had already tackled this topic in depth.

The paper concludes by outlining various responsibilities and obligations at group level.

Finally it should be noted that although drafting of the Level 3 Guidelines and Recommendations on the System of Governance is at an advanced stage, they are still being developed by EIOPA at the time of publication of this guidance paper and therefore changes may be effected.

Update on the Regulation of Funds in the EU

ESMA

Guidelines on ETFs and other UCITS issues

On 25th July, 2012, ESMA published guidelines on ETFs and other UCITS issues. The guidelines cover the following areas: **[i]** information to be given to investors about index-tracking UCITS and UCITS ETFs; **[ii]** rules for UCITS entering into over-the-counter financial derivative transactions; **[iii]** redemption conditions for secondary market investors; **[iv]** criteria for financial indices and collateralised transactions in which UCITS may invest; and **[v]** techniques for efficient portfolio management.

Consultation on the treatment of Repurchase ('Repo') and Reverse Repurchase Agreements

On 25th July, 2012, ESMA published a consultation paper setting out the treatment of repo and reverse repo arrangements used by UCITS and ETFs.

The consultation paper covers the following areas: **[i]** a distinct regime for repo and reverse repo arrangements that allows a proportion of the assets to be non-recallable at any time; and **[ii]** guidelines to ensure that the counterparty risk arising from these arrangements is limited and that the UCITS can continue to execute redemption requests.

The ESMA guidelines and consultation paper are available through the following web-link:

<http://www.esma.europa.eu/content/Report-and-consultation-paper-guidelines-ETFs-and-other-UCITS-issues>

The MFSA encourages the industry to consider and contribute to the consultation process. The consultation process is open until the **25th September, 2012**.

Should you have any queries, please contact the MFSA Securities and Markets Supervision Unit - su@mfsa.com.mt

European Commission – Publication of consultation document

On the 26 July 2012 the European Commission issued a Consultation document on possible issues in relation to the UCITS Directive. The document covers the following:

1. **Eligible assets and use of derivatives:** evaluation of the current practices in UCITS portfolio management and assessment of certain fund investment policies;
2. **Efficient portfolio management techniques:** assessment of current rules regarding certain types of transactions and management of collateral;
3. **Over the counter (OTC) derivatives:** treatment of OTC derivatives cleared through central counterparties, assessment of the current framework regarding operational risk and conflicts of interest, frequency of calculation of counterparty risk exposure;
4. **Extraordinary liquidity management rules:** assessment of the potential need for uniform guidance in dealing with liquidity issues;
5. **Depositary passport:** assessment of whether or not to introduce a cross border passport for the performance of the depositary functions set out in the UCITS Directive;
6. **Money Market Funds (MMF):** assessment of the potential need to strengthen the resilience of the MMF market in order to prevent investor runs and systemic risks;
7. **Long term investments:** assessment of the potential need for measures to promote long term investments and of the possible form of such measures (including investments in social entrepreneurship);

8. **Addressing UCITS IV:** assessment of whether or not the rules concerning the management company passport, master feeder structures, fund mergers and notification procedures might require improvements.

A copy of the consultation document is available from the European Commission website:

http://ec.europa.eu/internal_market/consultations/docs/2012/ucits/ucits_consultation_en.pdf

The MFSa encourages the industry to consider and contribute to the consultation process. The consultation period closes on the **18th October 2012**. All contributions should be addressed to: MARKT-UCITS-CONSULTATIONS@ec.europa.eu

MFSa Consumer Affairs Unit Report 2011

The MFSa Consumer Affairs Unit Report for 2011 has been published. A copy of the Report is available on the MFSa Website under [Publications](#).



MFSa Economic and Market Overview Report

The MFSa has published on its website the third issue of 'Economic and Market Overview' report. This report is issued every six months and covers information related to the economy in Malta and the effect of international developments on the local financial services market.

This issue includes an analysis on the performance of EU member states with respect to government debt and deficit, long-term interest rates, inflation and unemployment rates. The report also includes a brief overview on the local economic and financial services sector.

The Economic and Market Overview report also includes a comparative study on the financial services sector of the Netherlands, Guernsey and Bermuda. The comparative study provides an insight into the macroeconomic statistics for the selected jurisdictions and provides a snapshot of the size of the financial services sector. The study includes insights into the resources, reputation, regulatory infrastructure and rules for the financial services sector within each selected jurisdiction.

The report also provides a brief overview of recent international developments within the financial services sector split up into funds, insurance, banking and pensions business. This section provides links to the relevant news releases and websites from where the relevant information can be viewed.

This report can be accessed from the MFSa website under [Publications](#).



Press Releases issued by the European Supervisory Authorities

European Banking Authority (EBA) 

2 August 2012 - [ESAs strengthen supervisory cooperation for anti-money laundering supervision of payment institutions](#)

31 August 2012 - [ESAs consult on the application of the capital calculation methods for financial conglomerates](#)

European Securities and Markets Authority (ESMA) 

30 August 2012 - [Short Selling Regulation Update: Market Maker & Primary Dealer Exemption Notification Procedure](#)

Licences - July 2012

LICENCES ISSUED

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **HFH SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Nova Renewable Energy (Novare) Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **JVC Capital SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **Innocap Fund SICAV plc** in respect of two sub-funds.
- Collective Investment Scheme licences issued to **NBCG Fund SICAV plc** in respect of four sub-funds.
- Collective Investment Scheme licence issued to **SBS Opportunities Fund SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Sunshine Fund (Malta) SICAV Limited** in respect of one sub-fund.

Professional Investor Funds targeting Experienced Investors

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

Banking

Financial Institutions

- Financial Institution licence issued to **RJ Rapid Limited**.
- Financial Institution licence issued to **EFT Global Limited**.

Insurance

Protected Cells

- **Totemic Cell 2** has been approved as a cell of Atlas Insurance PCC Ltd.

Pensions

Retirement Schemes

- Certificate of Registration issued to **The Centaurus Retirement Benefit Scheme**.

Retirement Scheme Administrators

- Certificate of Registration issued to **Sovereign Pension Services Limited**.

Trustees & Fiduciaries

- Authorisation issued to **Capricorn Trustees Limited** to act as a trustee and to provide other fiduciary services (including acting as an administrator of private foundations).
- Authorisation issued to **Aegis Corporate Services Limited** to provide fiduciary services which do not include acting as trustees.

LICENCES SURRENDERED

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

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

- Surrender of licences issued to **Venus Multi-Strategy Fund SICAV plc** in respect of three sub-funds.
- Surrender of licence issued to **FfM Mittelstand SICAV plc** in respect of one sub-fund.
- Surrender of licences issued to **NBCG Fund SICAV plc** in respect of three sub-funds.
- Surrender of licences issued to **Innocap Fund SICAV plc** in respect of thirteen sub-funds.

Professional Investor Funds targeting Experienced Investors

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

UCITS

- Surrender of licences issued to **Invictus SICAV plc** in respect of six sub-funds.

Investment Services

- Surrender of Category 2 licence issued to **GDP Asset Management (Malta) Ltd.**

LICENCES EXTENDED

Banking

Credit Institutions

- Extension of licence issued to **VoiceCash Bank Limited** to carry out the issuing of electronic money as listed in the Schedule of the Banking Act.

Financial Institutions

- Extension of licence issued to **Credorax (Malta) Limited** to carry out the issuing of electronic money under the 3rd Schedule of the Financial Institutions Act (Electronic Money Institutions).

Investment Services

- Extension of licence issued to **Fortelus Capital Management Limited** to include the provision of Investment Advice to Professional Clients (including Collective Investment Schemes).

Insurance

- Extension of licence issued to **Millennium Insurance Agency Limited** to act as an insurance agent in relation to reinsurance business for and on behalf of Lloyd's Syndicates: Brit Syndicate 2987, Argo International AMA1200, Kiln Syndicate 510 & Others and Canopus Underwriting Limited on behalf of Syndicate CNP 4444.

Registry of Companies - New Registrations - July 2012

Companies	Partnerships	Total
280	5	285



MFSa Notices

13/08/2012 - [Surrender of Licence by FMG Funds SICAV plc](#)

27/08/2012 - [Surrender of Licence by Solar Investments Fund SICAV plc](#)

28/08/2012 - [Surrender of Licence by BlackSun Investments SICAV plc](#)



MFSa Circulars

06/08/2012 - [Guidance Paper on Risk Management](#)

24/08/2012 - [Note for Information - Outsourcing of operational functions by authorised Insurance and Reinsurance Undertakings](#)



MFSa Listing Authority Announcements

10/08/2012 - [Extension of period of Suspension of Trading - Loqus Holdings plc Ordinary Shares €0.232937 \(MT0000150103\)](#)

10/08/2012 - [Extension of period of Suspension of Trading - 7% GAP Developments Plc Euro Sec 2011-13 \(MT0000331216\)](#)

24/08/2012 - [Termination of Suspension of Trading - 7% GAP Developments Plc Euro Sec 2011-13 \(MT0000331216\)](#)

27/08/2012 - [Extension of period of Suspension of Trading - Loqus Holdings plc Ordinary Shares €0.232937 \(MT0000150103\)](#)



Warnings

MFSa warnings and Foreign warnings received by MFSa can be viewed on the [MFSa Website](#).



Forthcoming Events

- **25 September 2012** - [FIAU - AML & CFT Training Programme](#)
- **4-5 October 2012** - [MFSa/EIOPA - Governance of Licensed Entities - CPDC for Directors of Insurance Companies Licensed to Operate within the Insurance Sector](#)
- **21 November 2012** - [EIOPA 2nd Annual Conference](#)

MFSa Education Consultative Council (ECC)

Training by members of the ECC:

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

Issued by the Communications Unit, Malta Financial Services Authority, e-mail: communications@mfsa.com.mt

MFSa

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