

MFSA Annual Report 2015

Malta's financial services system continued to expand in terms of size, reputation and attractiveness in 2015, backed by a resilient regulatory framework, prudential supervision, consumer protection, and strong money laundering prevention mechanisms.

New licences, issued during 2015, were registered most notably in the payment services, electronic money and alternative investment management sectors. Growth in the sector also expanded in terms of employment opportunities both within the direct financial intermediation segment and other related professionals' services activities. The robustness of the sector is reflected in healthy capital and liquidity levels held by banks, the continued registration of funds and investment vehicles and a growing insurance industry within a comprehensive and strengthened regulatory environment

Introducing the Annual Report, MFSA Chairman Professor Joe Bannister noted that "the world economy stumbled in 2015 but it was a different story in Malta where the economy experienced impressive growth, with financial services playing an important role in that. The Malta Financial Services Authority ensured good governance but also underwent major internal restructuring to make it future proof. This was a year in which the MFSA continued to strengthen the regulatory and supervisory regime. It was a year of robustness and results."



The financial services industry plays a big part in the economic development of Malta. 90% of Foreign Direct Investment is in this sector, which has been expanding by about 25% a year in recent times. The sector makes up 8.5% of the GDP of Malta and is a major player in creating jobs. The World Economic Forum Competitiveness Report 2015-2016 ranks Malta highly. It places Malta 15th out of 148 for soundness of the banking system; 20th for strength of auditing and reporting standards; 25th for the regulation of stock exchanges.

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Prof. Bannister added that "the best course for Malta is to not only maintain its reputation but to enhance it. During 2015, the Authority continued to strengthen the regulatory and supervisory regime. The financial crisis had revealed serious shortcomings in the tools available to authorities for preventing or addressing systemic bank failures, hence the Bank Recovery and Resolution Directive (BRRD), creating the Resolution Authority, the Resolution Committee and the Resolution Unit within the MFSA, came into force in July 2015 and the Regulations in September 2015."

The Annual Report provides full details with regards to licencing developments, to efforts aimed at enhancing consumer protection as well as to key legislative and regulatory developments in the financial services industry. Particularly, the Insurance and Reinsurance Solvency II directive was transposed after a two-year preparation period. The MFSA worked with insurance and reinsurance undertakings as they adapted to its requirements. Ongoing developments include activity related to the implementation of CRD IV/V, MiFID II, the Transparency Directive and UCITS V.

The MFSA Annual Report 2015 and the financial statements for year ending 31st December 2015, are available for download from: <http://goo.gl/cYWEG3>.

What's Inside: MFSA Annual Report 2015 | Anti-Money Laundering training | MFSA to consolidate Maltese Fund Framework | Regulatory Compliance Visits | EIOPA, EBA Stress tests , Deposit Guarantee Schemes announced

MFSA holds Anti-Money Laundering training seminars

The Malta Financial Services Authority in conjunction with the Financial Intelligence Analysis Unit (FIAU) organised a series of Anti-Money Laundering / Combating the Financing of Terrorism (AML/CFT) training seminars at the MFSA Conference Hall.

This various training events targeted MFSA and FIAU AML/CFT supervisory staff, police, officials from the Office of the Attorney General, members of the judiciary and MLROs and compliance officers from licence holders in the different financial services sectors licenced by the Authority. The training included a mix of lectures and customized practical exercises. The content and topics were tailor-made depending on the participants to each specific event and included a “mock trial” exercise in the case of law enforcement, prosecutors and judges. The training covered issues such as risk assessment, customer due diligence, preventive measures relating to politically exposed persons, wire transfers, reliance on third parties, high risk countries, suspicious transaction reporting and internal controls and procedures.

These training seminars were held with the aim to further enhance the AML/CFT knowledge and awareness of MFSA and FIAU staff, law enforcement, prosecutorial and judicial authorities and key officials of licence holders, and to improve compliance levels and effectiveness. The training was also held in anticipation of a future AML/CFT assessment to be conducted by the International Monetary Fund and/or MONEYVAL.

The training was delivered by expert consultants: Gabriele Dunker – formerly a senior official within the Legal Department of the International Monetary Fund and currently a consultant taking part also in IMF, FATF and MONEYVAL missions; Lisa Florkowski - with more than 20 years’ experience in AML/CFT supervision for the Austrian financial services authority and in compliance at various large banks and Miroslava Milenovic - a forensic accountant with extensive expertise in investigatory techniques.



Ms. Dunker addressing seminar participants

MFSA to consolidate Maltese Fund Framework

The MFSA has announced its intention to consolidate and reduce the number of fund frameworks which are currently available to fund promoters in terms of the Investment Services Act and the applicable Investment Services Rules. This process is the first phase of an exercise aimed at improving the fund frameworks.

There are currently twelve fund frameworks available to promoters in Malta and these can be divided into two categories namely: Retail Schemes, Professional Investor Funds (PIFs) and Alternative Investment Funds (AIFs). As part of the first phase of this project, a number of fund frameworks will be consolidated while others will be reduced. Details of these changes are outlined in the Circular available on the MFSA website, through the link: <https://goo.gl/cNA9B5>

With effect from 3 June 2016, the MFSA will not be accepting any applications for the licencing of the following collective investment schemes:

- a) Non-UCITS Retail Schemes,

- b) PIFs targeting Experienced Investors and Extraordinary Investors, and
- c) AIFs targeting Experienced Investors and Extraordinary Investors.

The revised Investment Services Rules applicable to Retail Schemes, PIFs and AIFs will be published to reflect the consolidation of the fund regimes. Moreover the Authority will take the opportunity to revise certain provisions in the aforementioned Rulebooks and these will be issued for consultation.

Any queries or requests for clarifications on the contents should be addressed to Dr. Isabelle Agius by e-mail on iagius@mfsa.com.mt.

Regulatory Compliance Visits – How to avoid banana skins

By Joseph J Agius – Deputy Director, Securities and Markets Supervision Unit & Jeanelle Newell – Analyst, Securities and Markets Supervision Unit

Introduction

The MFSA carries out its Supervisory Review Processes taking a risk-based, proactive and proportionate approach to the supervision of licence holders across all sectors.

The Securities and Markets Supervision Unit (“SMSU”) within the MFSA responsible for the regulation and supervision of investment services companies, collective investment schemes, fund management and related fund services operations, admissibility to listing on recognised investment exchanges, and oversight of financial markets. As part of its supervision duties, SMSU carries out onsite inspections at licence holders falling under its remit. Broadly speaking, onsite visits take the form of thematic reviews, focused visits or broad scope visits. These visits may be planned/ scheduled beforehand or they may be conducted on a surprise basis. Surprise visits are typically triggered by particular events or serious supervisory issues surrounding the licence holder in question.

This article is mainly intended to help licence holders prepare for a planned/ scheduled compliance visit and to ensure that such visits are conducted seamlessly, while adding value to the organisation being visited.

Before the Visit – Upon Notification

Licence holders identified for planned/ scheduled compliance visit will be typically notified that the MFSA will conduct an onsite inspection at the licence holder’s office a month in advance. This is done through an official letter sent via email and by post.

Upon receiving the MFSA’s notification, it is recommended that licence holders take, inter alia, the following actions:

- Block diary and ensure full availability of key personnel during the visit. The MFSA generally indicates the persons who would need to be available during the duration of the inspection. These are normally the Managing Director and the Compliance Officer of the licence holder.
- Onsite visits are usually held at the business office of the licence holder.
- Should the date of the visit selected by the MFSA occur during a busy period, such as Net Asset Value strike date or month end, the licence holder may request the MFSA to find alternative date. The MFSA may consider selecting an alternative date so that the proposed time of visit does not hinder the licence holder’s operations.
- Make appropriate logistic arrangements for when the onsite regulation team visits the offices. Normally, the onsite team would need an office or a room where to hold meetings and conduct the documentation review. Ensure that there are adequate electricity sockets in the room for the onsite team’s IT requirements.
- In case the licence holder under review outsources critical functions, ensure that the delegates are aware of the compliance visit and available via conference call in case of need.

- Prepare in advance of the meeting the documentation listed in the pre-visit notification letter in terms of the powers granted to the MFSA by virtue of article 13 of the Investments Services Act (Cap. 370).
- It is advisable to conduct a gap analysis between the findings identified by MFSA in previous visits and the current licence holder's processes and procedures. This will ensure that the current position of the licence holder is at least close to what is expected from the onsite regulatory team.
- Ensure that certain key documents, such as Procedures Manual, Breaches Log, Complaints Register, Compliance Manual etc. are duly completed and updated.

During the Visit

- Be honest, transparent and open with the MFSA onsite team. It is better to admit shortcomings rather than state something which is not true and then evidence collected by the onsite team proves otherwise.
- Respond to the onsite team's request expeditiously.
- An exit meeting is usually held prior to the end of the compliance visit. This may be held at the licence holder's premises on the last day or convened at the MFSA premises closer to the date of issuance of the exit letter. The purpose of exit meetings is to communicate to the licence holder any material findings identified as well as a chance for the licence holder to clarify any misunderstanding or misinterpretation of any particular issue/ finding identified during the compliance visit.
- State what is truthful and correct any misunderstandings during the exit meeting to ensure that the preliminary findings identified and communicated by the onsite team are factual.

Post Visit – Prior to the issuance of the Exit Letter

- Send any further requested documents to the MFSA officials.
- Start working without delay on issues identified by the MFSA onsite team (and communicated during the exit meeting) with a view to addressing as many recommendations as possible prior to the exit letter received from the MFSA.

Exit Letter

- The wording of the exit letter will convey whether the findings identified are a breach to any particular regulation or legislation, or whether these findings are deficiencies compared to the MFSA's expectations and/or industry's best practice.
- The licence holder is required to address all breaches of regulation or legislation identified and confirm to the MFSA that corrective action has been implemented.
- Where the MFSA recommends the licence holder to take any particular action which is based on best practice, it is in the best interests of the licence holder and its stakeholders to take on board such recommendation. Where the licence holder considers inappropriate to implement such suggestions, it should justify its decision to the MFSA with reasonable and well-grounded considerations.
- Any findings identified which are the result of a breach to any regulation or legislation need to be logged in the breaches log.
- The MFSA may, in future compliance visits, check that outstanding recommendations have been fully implemented and addressed. Marking recommendations as implemented when this is not the case is certainly not recommended.

MFSA issues Feedback following Consultation on the implementation of the EU Payment Accounts Directive

The MFSA has published its feedback as well as a number of amendments to the proposed regulations based on the comments received by various stakeholders, following the completion of consultation process with regards to the implementation of the EU Payment Accounts Directive (Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment account with basic features).

The Payment Accounts Directive sets out common regulatory standards that member states are required to meet in order to improve the transparency and comparability of fees related to payment accounts that are used for day-to-day payment transactions, to facilitate switching of those accounts; and to ensure access to bank account with basic features.

Malta, along with all other EU Member States, is required to transpose the PAD by 18 September 2016 in order to meet its treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. This requires the government to make new secondary legislation in virtue of enabling powers set out in the Banking Act and the Financial Institutions Act.

The feedback statement is available on: <https://goo.gl/58cuhb>

Conduct of Business Rulebook Phase 2 Consultation extension

Further to the Consultation Document issued by the MFSA on the 11 April 2016 regarding the Conduct of Business Rulebook, Phase 2, the Authority has notified the industry that European Parliament ECON Committee has voted in favour of the Commission's proposal for the transposition date of Directive 2014/65/EU (MiFID II) to be extended by one year until 3 July 2017.

This extension is effective as soon as it published in the Official Journal, subject to a favourable vote in the European Parliament. In light of this development, the MFSA advises that the period of consultation on the Conduct of Business Rulebook, Phase 2, has been extended until the 30 June 2016.

Interested parties are kindly requested to submit any comments in writing, on csu@mfsa.com.mt or alternatively by conventional post and addressed to: The Director – Conduct Supervisory Unit, Malta Financial Services Authority, Notabile Road, Attard.

Stress tests for Insurance companies, Deposit Guarantee Schemes announced

EIOPA Launches the EU-wide Insurance Stress Test 2016

The European Insurance and Occupational Pensions Authority (EIOPA) launched today an EU-wide stress test for the European insurance sector. This regular exercise aims to assess insurers' vulnerabilities and is not being interpreted as a pass-or-fail test. It is designed to assess the resilience of the European insurance sector to severe adverse market developments based on a common analytical framework. Furthermore, this stress test will examine the potential increase of systemic risks in situations of stress.

The Stress Test 2016 focuses on two major market risks: the prolonged low yield environment and the so-called "double-hit", i.e. a negative market shock to asset prices combined with a low risk free rate. The exercise focuses on long-term business performed by solo undertakings (no insurance groups).

In order to include a higher number of small and medium size insurers, the participation target was increased from

a 50% share in 2014 to a 75% share of each national market in terms of gross life technical provisions. The Stress Test 2016 is using the Solvency II framework and harmonized reporting requirements. Its reference date is 1 January 2016.

The deadline for submission of results to the national competent authorities (NCAs) will be 15 July 2016. The EU-wide results of the stress test will be disclosed in December 2016 in an anonymized and/or aggregated way.

EBA publishes final Guidelines on stress tests for deposit guarantee schemes

The European Banking Authority (EBA) published today its final Guidelines on stress tests for deposit guarantee schemes (DGSs). The Guidelines provide a systematic methodology for planning, running and reporting on stress tests conducted by DGSs to assess their resilience to various types of scenarios in times of banking stress. In line with the Deposit Guarantee Schemes Directive (DGSD), these Guidelines will promote the quality and the consistency of these stress tests. The resulting data will also facilitate future peer reviews by the EBA, contributing to a safe and sound EU framework for the benefit of depositors and financial stability.

The Guidelines lay down basic methodological principles for all stress tests run by DGSs in the EU, including the various stages to be completed, the scenarios simulated and the areas and indicators to be measured. In addition, they establish a small core of harmonised priority tests to be run by DGSs and reported to the EBA with a view to running a comparable EU-wide peer review. The first stress test should take place by 3 July 2017.

With a view to contributing to the first EBA peer review foreseen in 2020, DGSs should test a broad range of operational and funding capabilities, which will cover key areas and main functions activated when a DGS intervenes. DGSs will be requested to report their results on these priority tests by 3 July 2019. The results should provide information for a first meaningful EU-wide overview of the resilience of DGSs.

European Supervisory Authorities Press Releases

European Securities and Markets Authority (ESMA)

02/05/2016 - [ESMA Press release - Publication of first EU-wide CCP stress test results](#)

25/05/2016 - [ESMA clarifies the reporting of reference data under MAR from 3 July 2016](#)

European Insurance and Occupational Pensions Authority (EIOPA)

24/05/2016 - [EIOPA launches EU-wide Insurance Stress Test 2016](#)

European Banking Authority (EBA)

04/05/2016 - [EBA amends historical look-back approach \(HLBA\) method for calculating additional collateral outflows](#)

05/05/2016 - [EBA publishes corrections to XBRL reporting taxonomies and confirms reference dates](#)

05/05/2016 - [EBA seeks views on the use of consumer data by financial institutions](#)

13/05/2016 - [EBA agrees with the Commission on changes to the amended technical standards on benchmarking of internal approaches](#)

13/05/2016 - [ESAs clarify their position on technical standards on the credit quality steps for ECAs credit assessments](#)

18/05/2016 - [EBA confirms the use of unsolicited credit ratings for determining institutions capital requirements](#)

25/05/2016 - [EBA publishes final Guidelines on stress tests for deposit guarantee schemes](#)

MFSA Circulars

- 02/05/2016 - [Circular addressed to Investment Firms authorised to provide investment advice](#)
- 03/05/2016 - [Circular to the financial services industry on the changes being proposed to the Investment Services Act \(ISA\) as a result of the transposition of MiFID II and the implementation of MiFIR](#)
- 05/05/2016 - [Circular relating to the consultation process on the Conduct of Business Rulebook](#)
- 11/05/2016 - [Circular to the Financial Services Industry on the Implementation of the Central Securities Depositories Regulation \(EU\) No 909/2014](#)
- 20/05/2016 - [Circular to the financial services industry on changes to the Investment Services Rules](#)
- 25/05/2016 - [Circular relating to the consultation process on the Conduct of Business Rulebook – Phase 2: EXTENSION OF CONSULTATION PERIOD](#)
- 26/05/2016 - [Circular to the Financial Services Industry on the Consolidation of the Maltese Fund Frameworks](#)
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MFSA Warnings

- 16/05/2016 - [MFSA Warning - http://alphacmarkets.com/](http://alphacmarkets.com/)

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

MFSA Feedback Statements

- 24/05/2016 - [Feedback statement issued further to Consultation on the implementation of the EU Payment Accounts Directive](#)
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MFSa Licences - April 2016

NEW LICENCES

Collective Investment Schemes

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **Woodman Funds SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licences issued to **Audentia Capital SICAV plc** in respect of two sub-funds.
- Collective Investment Scheme licences issued to **Top Selection Fund SICAV plc** in respect of two sub-funds.

Alternative Investment Funds targeting Professional Investors

- Collective Investment Scheme licence issued to **The ARP Funds (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.

Company Service Providers

- Registration certificate issued to **Quantum Corporate Services Limited**.
- Registration certificate issued to **Capricorn International Limited**.
- Registration certificate issued to **Crystal Worldwide Limited**.

Securitisation Vehicles

Notified Securitisation Vehicles

- Acknowledgement issued to **Select Industries PLC**.

Cells

- Acknowledgement issued to **Bridge Cell**.
- Acknowledgement issued to **Tiche Cell**.

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

- Surrender of license issued to **AtonRâ Umbrella Fund SICAV plc**.
- Surrender of license issued **HFH SICAV plc** in respect of one sub-fund.

Alternative Investment Funds targeting Professional Investors

- Surrender of licence issued to **The ARP Funds (SICAV) plc** in respect of one sub-fund.

Insurance*Insurance Agents*

- Surrender of licence issued to **Citadel Health Insurance Agency Limited**.

Recognised Fund Administrators

- Surrender of license issued to **TMF FundAdministrators (Malta) Limited**.
- Surrender of license issued to **TMF FundServices (Malta) Limited**.

EXTENDED AND REVISED LICENCES**Investment Services**

- Revision of licence issued to **Gamma Capital Markets Limited** to include the provision of reception and transmission of orders to retail and professional clients in relation to units in collective investment schemes.
- Upgrade of licence issued to **Cevian Capital (Malta) Limited** to include the provision of execution of orders on behalf of other persons to professional clients.

Registry of Companies - New Registrations – April 2016

Companies	Partnerships
424	18

Forthcoming Events

[June 3 - Malta International Training Centre: National Insurance Conference](#)

[June 9 - Malta Bankers' Association Conference - "Combating Financial Crime - Protecting Malta's Economy"](#)



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 \(MCAST\), Institute of Business & Commerce](#)
- [The Department of Banking & Finance, Faculty of Economics, Management & Accountancy, The University of Malta](#)

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



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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