

## Prof John Mamo to be appointed MFSA chairperson

Professor John Mamo will be the new non-executive chairperson of the MFSA after 31 March 2018. This was announced, by the Prime Minister Joseph Muscat, during the Malta Business Network lunch held on 20 December.

Professor Mamo was most recently appointed Commissioner for Malta at the Expo in Milan in 2016. In March of the same year he was decorated by the Italian Government for his work in enhancing Italo-Maltese commercial relations and nominated Cavaliere del Ordine al Merito della Repubblica Italiana.



*Professor John Mamo*

Professor Mamo obtained a Doctor of Law at the University of Malta in 1971 and has since been an active practitioner specialising in the field of commercial law. He is the founder of John Mamo and Associates, today merged into MamoTCV.

Throughout the years, Professor Mamo has served on the boards of several companies in Malta and abroad as director or chairperson. He also served as Head of Department of Commercial Law and was appointed Commissioner of Data Protection in 2002.

The Prime Minister said that Professor Mamo is a respected entrepreneur and professional who will do a great job. The Prime Minister thanked Professor Joe Bannister for his commitment and sterling work during his time as MFSA chairperson.

*(Press Release by the office of the Prime Minister PR172944 - 20/12/2017)*

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## Conduct of Business Rulebook Feedback Statement issued

The MFSA has issued its Feedback Statement following a Consultation Process on the Conduct of Business Rulebook.

On 6 May 2015 the Malta Financial Services Authority (“MFSA”) entered into the first phase of a consultation procedure through the issuance of the “*Consultation document relating to the creation of a proposed Conduct of Business Rulebook*” (Ref.04/2015). This consultation procedure followed the previous consultation undertaken by the MFSA 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 27 January 2014. The first phase of this consultation procedure tackled the topics of: (1) Client Disclosures and Reporting; (2) Product Governance; and (3) Conflicts of Interest.

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### *What’s Inside This Issue:*

**Prof John Mamo to be appointed MFSA chairperson | Conduct of Business Rulebook Feedback Statement issued | MFSA issues revised Investment Services Rules | Revised Financial Market Rules for Trading Venues, DRSPs and Central Securities Depositories | MFSA Consults on Amendments to the Pension Rules issued under the Retirement Pensions Act | Opalesque Roundtable Series - Malta 2017 | Book Review**

On 11 April 2016 the MFSA entered into the second phase of the consultation procedure (Ref. 04/2016). The purpose of this second phase of consultation was 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) and (2) Execution of Clients' Orders.

The Rulebook is 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. The Rulebook is aimed at setting out the regulatory requirements of the above – mentioned regulated persons, insofar as their conduct vis-à-vis their clients, is concerned.

This Rulebook is mainly a transposition of the relevant requirements set out in the relevant EU directives applicable to Regulated Persons as defined in the Glossary to the Rulebook, as well as any relevant Level 2 and Level 3 measures.

In drafting the Conduct of Business Rulebook, the MFSA has mainly transposed the conduct of business requirements of; (i) the Markets in Financial Instruments Directive (MiFID II) together with the MiFID Implementing Directive and Implementing Regulation, as applicable to investment services licence holders, other than AIF managers or custodians; and (ii) the Insurance Distribution Directive together with the IDD Implementing Regulation on Conflicts of Interest and Inducements, Assessment of Suitability and Appropriateness, as applicable to insurance undertakings and insurance intermediaries.

The MFSA has also taken into account any Guidance and/or Opinions issued by the European Securities and Markets Authority (ESMA) as well as the European Insurance and Occupational Pensions Authority (EIOPA).

With respect to Regulated Persons falling under points (i), (ii) and (v) of the definition of Regulated Person in the Glossary to the Conduct of Business Rulebook, the requirements of the Rulebook will start to apply as from the 3rd January 2018.

With respect to Regulated Persons falling under points (iii) and (iv) of the definition of Regulated Person In the Glossary to the Conduct of Business Rulebook, the requirements of the Rulebook will not be applicable to such entities until further notice.

Accordingly, the Conduct of Business Rulebook will be applicable with respect to Insurance Undertakings, Insurance Intermediaries from a date specified by the Authority. With respect to Ancillary Insurance Intermediaries the Rules contained in the Rulebook which would apply to such persons would also be specified at a later date.

The contents of this Rulebook should be read in conjunction with the requirements of the Investment Services Rules for Investment Services Providers, Insurance Rules and Insurance Intermediaries Rules which prescribe the prudential requirements for the Regulated Persons in question and which are also binding on Regulated Persons.

The Chapters of the Rulebook are available here: <https://www.mfsa.com.mt/pages/announcement.aspx?id=10853>

For any further clarification: [csu@mfsa.com.mt](mailto:csu@mfsa.com.mt)

## MFSa issues revised Investment Services Rules

Further to the Consultation Document and the respective Feedback Statement issued by the Malta Financial Services Authority on the 17 April 2017 and 9 June 2017, respectively, the Authority has published the revised Part BI of the Investment Services Rules for Investment Services Providers.

In this respect, the revised Rules shall be applicable as from 3 January 2018, and shall effectively replace the existing Part BI - Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as MiFID Firms.

In line with the aforementioned Consultation Document, the revised Part BI shall no longer make reference to 'Standard Licence Conditions' ('SLCs') but to 'Rules'. Moreover, Licence Holders falling within scope of these Rules should note that the revised rules introduce certain changes, particularly:

[1] transpose MiFID II, while certain pre-existing SLCs (now Rules) have been amended to provide the necessary clarifications which the Authority has deemed necessary;

[2] minimise the need for cross-referencing as the appendices to Part BI have also been included within the revised Rules so as to provide the industry with a comprehensive document;

[3] introduce a referencing and numbering style which provides a unique identifier to each and every rule as well as facilitates any potential future amendments; and

[4] restructure the layout of the existing Rules to provide a holistic rulebook which is more flowing and better structured.

The Authority emphasises that the new Part BI is to be read in conjunction with the Conduct of Business Rulebook.

It should be noted that, the Authority is currently in the process of revising the existing Part BII1, Part BIII2 and Part BIV3 of the Investment Services Rules for Investment Services Providers, particularly the cross-references to Part BI contained therein. These will be issued in due course. Furthermore, cross-references to the existing Appendices within the said Parts BII, BIII and BIV will, for the time being, remain applicable to Investment Services Licence Holders falling within scope of the aforementioned rules.

The Revised Part BI of the Investment Services Rules for Investment Services Providers are available [here](#).

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## Revised Financial Market Rules for Trading Venues, DRSPs and Central Securities Depositories

The MFSa has published the revised Financial Market Rules for Trading Venues, DRSPs and Central Securities Depositories. The revised Rules shall be applicable as from 3 January 2018 and shall effectively replace the existing Financial Market Rules for Regulated Markets.

Trading Venues, Data Reporting Services Providers and Central Securities Depositories falling within scope of these Rules should note that the revised rules:

- implement various delegated regulations which supplement MiFID II;
- implement the CSD Regulation;

- introduce a referencing and numbering style which provides a unique identifier to each and every rule as well as facilitates any potential future amendments; and
- restructure the layout of the existing Rules to provide a holistic rulebook which is more flowing and better structured.

The revised Rules are available [here](#).

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## **MFSA Consults on Amendments to the Pension Rules issued under the Retirement Pensions Act**

The Retirement Pensions Act (“the RPA”), (Cap.514), Regulations and Pension Rules issued thereunder, came into force on the 1st January 2015. During the last three years, the MFSA received queries from the pensions market as well as representations from the Malta Association of Retirement Scheme Practitioners (MARSP).

The MFSA is proposing various amendments to the Pension Rules for Personal Retirement Schemes issued under the RPA, which relate, in particular, to clarifications as to the applicability of the Pension Rules for Personal Retirement Schemes to member-directed Schemes, and to material changes proposed to the regime of member-directed Schemes.

The proposed Draft Pension Rules for Personal Retirement Schemes and Appendices 1 to 5 to the said Rules are available [here](#).

The MFSA considered the issues relating to the practical application of certain requirements found in the Pension Rules with respect to personal retirement schemes, in particular member-directed schemes. The MFSA is proposing amendments in order to address issues observed during on-site and off-site supervisory work. Some of the issues which the Authority has identified are of concern, in particular, when considering that members, who are mostly retail members, contribute their life-time savings into a Personal Retirement Scheme with a view to obtaining a stream of income upon retirement.

Moreover, the proposed amendments to the Pension Rules for Personal Retirement Schemes also seek to address the queries raised as to the actual respective role and responsibilities of all the parties involved in the context of member-directed Schemes, as well as to enhance the practical implementation of the current provisions laid out in Part B.9 (Supplementary Conditions in the case of entirely Member Directed Schemes). Other amendments have been carried out to the said Pension Rules.

The MFSA proposes that the new regime shall come into force on the 2nd July 2018. In this respect, the RSA is expected to act in a prudent manner, taking into consideration these new envisaged requirements as outlined in this Consultation document, and ensuring that member’s rights and expectations are not to be prejudiced, in any manner.

The MFSA will host applications in line with the envisaged regime, as from 1st March 2018, for RSAs to apply with the Authority to set-up a non-member directed Scheme where new retail members can join as from 2nd July 2018.

It is to be noted that the amendments proposed in this Consultation Document, particularly in relation to member directed Schemes and to the removal of back-office administration, may necessitate further consequential amendments to the RPA, any regulations issued thereunder, the Pension Rules for Occupational Retirement Schemes and Pension Rules for Service Providers. Moreover, it is to be noted that in the near future, the RPA or

any regulations or Pension Rules issued thereunder, will be subject to amendments in view of the upcoming transposition exercise of Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast).

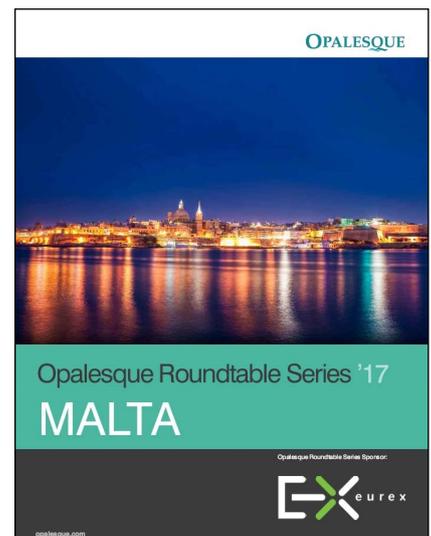
Any comments and feedback in relation to this Consultation Document are to be addressed to the Insurance and Pensions Supervision Unit and submitted in writing on [ipsu@mfsa.com.mt](mailto:ipsu@mfsa.com.mt) by not later than the Friday 12th January 2018.

## Opalesque Roundtable Series - Malta 2017

The 2017 Edition of Opalesque Roundtable Series - Malta 2017 was held at the MFSA.

In its report on the 2017 session of its Roundtable Series', Opalesque describes Malta as one of Europe's fastest growing and most stable and innovative finance domiciles, benefitting from a sound commercial infrastructure, and an English-speaking business community with a strong platform of professionals able to service the needs of fund promoters. Both the number of Malta based funds and fund managers operating from Malta have been growing steadily.

The Malta Financial Services Authority (MFSA) has built a solid reputation as a meticulous, yet accessible, supervisory body, ensuring that the local industry is closely monitored and fully compliant. Most recently, the MFSA issued a consultation paper regarding crowdfunding and also proposed a regulatory framework for collective investment schemes that invest their entire portfolio in virtual currencies, essentially outlining a separate rule book for these types of funds. The regulator is also looking at ICOs (initial coin offerings) and suggests to regulate the issuers of (crypto currency) coins as regulated persons.



The major issues covered during this year's event were:

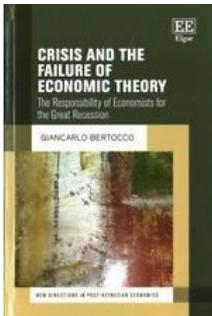
- Consequences of the ESA (European Supervisory Authorities) review for the asset management industry
- Changes to Malta's Notified AIF regime
- Why Malta kept its Professional Investor Fund (PIF) regime when introducing AIMD - benefits for fund managers and investors
- What are the risks of crypto currency funds from a depository perspective?
- Substance versus outsourcing: In order to operate from Malta, fund managers need to have local substance
- What is the MFSA looking for when conducting on-site inspections?
- What could Brexit mean for Malta? What should US managers know regarding Brexit?
- Why Malta offers opportunities for all types of service providers

A report of the discussions held is available [here](#).

## Book Review

### Crisis and the Failure of Economic Theory – Bertocco, Giancarlo (2017)

ISBN 978-1-78536-534-8 – Edward Elgar, Cheltenham UK & USA



History is bunk! History is dead! Or, worse still, “The end of history!” Contemporary financial practitioners can very easily be mistakenly tempted to join that crowd, arguing that no two crises are ever the same. Bertocco’s (University of Insubria) answer is a volume that tackles even more than the book’s claimed target of analysing responsibility of economists for the Great Recession. One would be pardoned for asking “which”: that of the 1930s or the post Lehman 2008? What went wrong in both of them goes beyond several often too easily trumpeted out issues: such as surveillance failure or systemic failure? Or does going beyond surveillance reduce the risk of financial crises?

This, in a sense, is a volume produced in an old-fashioned idiom. One somehow senses that the writer holds as vital both the Schumpeterian (Capitalism will, through its own ingeniousness, drive itself into the ground) and the Minsky (Can incoherence keep appearing in contemporary financial markets?) approaches to what is potentially the current most important issue hopping and jumping all around us, viz can we see a crisis coming if we have theories and models that either assume that a new crisis is impossible, or that the self-interests of organisations, specifically banks and others, are such that they are best capable of protecting their own shareholders and their equity in the firm.

This extremely well-presented volume is structured in three parts. The first is a three-chapter study of the crisis and what mainstream theory has to say about it. Here Bertocco provides a brief description of the crisis, what mainstream economics usually tells us about it, and what in fact are the limitations of such mainstream theorisations. In the second part of the book, Bertocco considers an alternative theoretical approach to the problem. He is anything but petulant in using the father of modern economics Keynes’s approach to the monetary theory of production. This Part II also goes into depth on the constantly inevitable linkage between finance and risk, and explores savings, wealth, and speculation decisions. Bertocco refers in Part III to the different positions of Keynes and Schumpeter on the phenomenon of economic crises. If contemporary economies are characterised by profound fluctuations in production and employment, why should not the world of finance also accept that this will always also be with us in our world. Indeed to blame it all always on regulators may not at all be “just”.

The global financial crisis is now ten years past...some still hold it is still on. It may be easy for some to say that in many places the financial sector is stronger than it was before the crisis. But that does not exonerate anyone from being constantly on the lookout for studies that challenge us to understand better both the on-the-front and day-to-day elements of the prudential/profitability grind, and the wider historical and economic realities which, like the hidden snake in the sand, are always there, slithering and grinding towards any potential bites that we keep calling “crisis”....rather than “regular and perennial reality”. For the pensively inclined financial services practitioner this is certainly a fine book that must be read slowly, thoughtfully....appreciatingly.

John Consiglio

*Dr John Consiglio is a member of the MFSA Board of Governors*

## MFSA Circulars

- 07/12/2017 - [Circular relating to a Legal Entity Identifier under MIFID II and MIFIR as applicable to Retirement Schemes licensed under the Retirement Pensions Act](#)
- 18/12/2017 - [Circular: Update on ESMA Statement on the preparatory work of ESMA in relation to Contracts for Difference \[CFDs\], including rolling spot forex, Binary options and other speculative products](#)
- 18/12/2017 - [Circular on the issue of the revised Part BI of the Investment Services Rules for Investment Services Providers](#)
- 18/12/2017 - [Market Abuse Regulation – Q & A Document](#)
- 18/12/2017 - [Circular on the issue of the revised Part BI of the Investment Services Rules for Investment Services Providers](#)
- 19/12/2017 - [Circular on the revised Financial Market Rules for Trading Venues, DRSPs and Central Securities Depositories](#)
- 20/12/2017 - [Circular: ESMA MIFID II / MiFIR Investor Protection Q&As](#)
- 21/12/2017 - [Circular - European Securities and Markets Authority \('ESMA'\) Statement Supporting the Smooth Implementation of Legal Entity Identifiers \('LEI'\) Requirements under MiFIR](#)
- 21/12/2017 - [Circular - Transition from 'Phase 3: Validation Testing' to 'Go-Live'](#)
- 22/12/2017 - [Circular - Requirement to obtain a Legal Entity Identifier \('LEI'\)](#)
- 22/12/2017 - [Circular - Transaction Reporting](#)
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## MFSA Warnings

- 05/12/2017 - [Falcon Financial Management – http://www.falconfinancialmanagement.com/](http://www.falconfinancialmanagement.com/)

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

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## MFSA Consultation Papers and Feedback Statements

- 06/12/2017 - [Consultation on Amendments to the Pension Rules for Personal Retirement Schemes](#)
- 07/12/2017 - [Consultation on Proposed Amendments to Chapter 8 of the Listing Rules Regulating Exchange Traded Funds in Malta](#)
- 20/12/2017 - [Feedback Statement - Conduct of Business Rulebook](#)
- 22/12/2017 - [Consultation - Request for Contributions to a Proposed Review of Chapter 11 of the Listing Rules - Takeover Bids](#)
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## European Supervisory Authorities' Announcements

- 11/12/2017 - [EBA welcomes the revised Basel framework and provides an overview of its impact in the EU](#)
- 11/12/2017 - [ESAs publish draft technical standards to strengthen group-wide management of money laundering and terrorist financing risks](#)
- 11/12/2017 - [ESMA publishes key transparency calculations for MiFIDII/MiFIR implementation](#)
- 14/12/2017 - [EIOPA's stress test identifies spill-over risks into the real economy from shocks to the European occupational pensions sector](#)
- 14/12/2017 - [EBA publishes its standardised data templates as a step to reduce NPLs](#)
- 14/12/2017 - [Occupational Pensions Stress Test 2017 - Reports/Presentation/FAQs](#)
- 15/12/2017 - [ECB seeks industry feedback on assessment of internal models used for calculating counterparty credit risk](#)
- 20/12/2017 - [ESMA consults on securitisation requirements](#)
- 20/12/2017 - [ESMA issues statement on LEI implementation under MiFID II](#)
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## MFSA Licences – December 2017

### New licences

#### Collective Investment Schemes

Blue Star Vision IC SICAV plc – to act as a Professional Investor Fund targeting Qualifying Investors

Haven Cove SICAV plc - in respect of the *Haven Cove Absolute Return Fund* to act as a Professional Investor Fund targeting Qualifying Investors.

#### Trusts and trustees

NewCo Fiduciaries Ltd (C60335) - to provide fiduciary services which do not include acting as Trustee in terms of Article 43 of the Trusts and Trustees Act.

#### Company Service Providers

Döhle Management (Malta) Limited (C82894)

War Chest Corporate Services Ltd (C83637)

### Extended and revised licences

#### Investment Services

Altarius Asset Management Limited - to provide Investment Management Services in relation to 'Options, futures, swaps, forward rate agreements, and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event).

#### Collective Investment Schemes

Revision of Licence to AUM Global Platform SICAV plc in respect of the *Streaming Technology Fund* so as to reflect the conversion of the Scheme from a Professional Investor Fund to an Alternative Investment Fund.

Revision of Licence to AUM Total Return Umbrella Fund SICAV plc in respect of the Asset Allocation Fund and the Knight Shield Fund ("the Sub-Funds") so as to reflect the conversion of the Scheme from a Professional Investor Fund to an Alternative Investment Fund.

Revision of Licence to Shelter Island Fund SICAV plc in respect of *Shelter Island Total Return Fund II* to reflect the conversion of the Scheme from a Professional Investment Fund to a third-party managed UCITS Scheme

Revision of Collective Investment Scheme Licence to E Square IC SICAV plc so as to reflect the conversion of the Scheme from a Professional Investor Fund to an Alternative Investment Fund.

Conversion of AUM Asset Management Limited from a De Minimis AIFM to a full Alternative Investment Fund Manager

### Closure of Notified Sub-Fund

Tutela Capital Protection Fund

### Surrendered licences

#### Trusts and trustees

Citibank International Limited

## Registry of Companies - New Registrations – December 2017

Companies	Partnerships
367	4

## Forthcoming Events



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, Attard.*



*A portal of financial information from the regulator about financial products and services.*



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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