

## Malta leading the way in the regulation of DLT and cryptoassets

In the fast evolving world of FinTech and RegTech, the MFSA is positioning itself as a leading innovator, while ensuring that a robust regulatory framework is in place which is efficient and allows the industry to innovate and develop. The MFSA's aim in developing a new framework for virtual financial assets hinges on the need for a robust regulatory structure ensuring effective investor protection, financial market integrity and financial stability. Malta is the first country to regulate DLT and crypto assets in such a holistic manner, covering both the technological as well as the financial services components. Such approach gives legal certainty to such an embryonic sector until such time that an international consensus is reached on a more harmonised regime.



*MFSA CEO Mr Joseph Cuschieri addressing the Seminar*

Officials from the MFSA presented the latest developments in field of Virtual Financial Assets in a Seminar targeting persons wishing to register as VFA agents under the upcoming VFA Act.

MFSA CEO Joseph Cuschieri, remarked that “the MFSA is entering a new era based on technological innovation and change. Fintech and Regtech is an area where Malta as a jurisdiction can be a thought leader and innovator.”

Mr Cuschieri further expressed his aspiration to lead the Authority into developing further innovative RegTech and FinTech policies to enhance Malta's reputation as a robust and forward looking jurisdiction.

Dr Christopher P. Buttigieg, Director Securities and Markets Supervision Unit provided an overview of the MFSA's policy framework on DLT assets. Dr Buttigieg noted that the Act applies a principles-based approach to regulation supplemented by MFSA guidance, rather than detailed rules which would possibly stifle technological innovation. Its provisions reflect the high-level principles enshrined in the existing EU financial services legislation in relation to the provision of investment services, financial markets and market abuse. The approach adopted in the Act vis-à-vis the classification of DLT assets, namely into (1) financial instruments, (2) electronic money, (3) virtual tokens and (4) virtual financial assets, caters for the entire DLT ecosystem, including hybrid models, and ensures utmost technology neutrality in an ever-evolving sector.

---

### *What's Inside This Issue:*

**Consultation on Rules for Issuers of Virtual Financial Assets | MFSA publishes Financial Instrument Test | MFSA Continues Building Relationships with European Bodies, Authorities and Financial Services Regulators | Requirements for Crowdfunding Services | Feedback on insurance related Consultation documents | ECC Annual Report published | European Commission gives positive forecast on Maltese economy | Book Review**

Officials from the MFSa presented the attendees with further details on the VFA Act, the VFA Rules as well as the Financial Instrument Test. Further information on the FI Test is provided on page 4 of this Newsletter. The presentations delivered during the Seminar are available on the MFSa's Website.



During the seminar Mr James Farrugia, partner within GANADO Advocates, provided the audience with an overview of the Malta Digital Innovation Authority (MDIA) Act and the Innovative Technology Arrangements and Services Act frameworks and explained how the MDIA is going to coordinate and collaborate with the MFSa and other national competent authorities.

## Consultation on Rules for Issuers of Virtual Financial Assets

The MFSa has published for consultation the rules for Issuers of Virtual Financial Assets.

This Consultation forms part of a series of consultations that the MFSa is currently issuing in relation to the regulations and rules that will underlie and complement the [Virtual Financial Assets Act](#) ('the Act').

The scope of the *Consultation Paper on the Virtual Financial Assets Rules for Issuers of Virtual Financial Assets* is twofold: to obtain industry feedback in

relation to [i] Chapter 2 of the Virtual Financial Assets Rulebook; and [ii] the Authority's interpretation of the transitory provision provided under Article 62(1)(a) of the Act.

This Consultation can be accessed through [www.mfsa.com.mt/consultation](http://www.mfsa.com.mt/consultation) and is open to the public from 30 July 2018 until 13 August 2018. Interested parties are requested to submit their comments and feedback with respect to the Consultation by email on [fintech@mfsa.com.mt](mailto:fintech@mfsa.com.mt) by not later than **13 August 2018**. More information on the Virtual Financial Assets Framework can be obtained from the Website through [www.mfsa.com.mt/vfa](http://www.mfsa.com.mt/vfa).

During the month of July, the MFSa has also consulted with the industry with regards to the Virtual Financial Assets Rules for VFA Agents. These Rules complement the Virtual Financial Assets Act as well as the underlying Regulations.



## Financial Instrument Test published

The MFSa has today published the [Financial Instrument Test](#) and a corresponding [Guidance Note to the Financial Instrument Test](#).

The Financial Instrument Test is applicable to [i] issuers offering DLT assets to the public in or from within Malta; and [ii] persons providing any service and/or performing any activity, within the context of either the Virtual Financial Assets Act or traditional financial services legislation.

The purpose of the Financial Instrument Test is of determining whether a DLT asset qualifies as [i] Electronic Money as defined under the Third Schedule to the Financial Institutions Act; [ii] a Financial Instrument as defined under the Second Schedule to the Investment Services Act, whether issued in Malta or otherwise; [iii] a Virtual Financial Asset; or [iv] a Virtual Token as defined under the Virtual Financial Assets Act.

The Guidance Note assists users to compile the Financial Instrument Test by providing clarity and consistency in the determination of the appropriate legislative framework applicable to the DLT asset being assessed and the respective services being offered thereto. The MFSa invites interested parties and prospective users to test the Excel Sheet of the Financial Instrument Test and address any queries and feedback by email on [fintech@mfsa.com.mt](mailto:fintech@mfsa.com.mt) by not later than **13 August 2018**.



## MFSa Continues Building Relationships with European Bodies, Authorities and Financial Services Regulators

The MFSa is currently engaging with European bodies, authorities and financial services regulators and supervisors to share the Authority's experience and policy approach in relation to Distributed Ledger Technology ('DLT') assets.

During July 2018, the MFSa met with members of staff from the *Directorate-General for Financial Stability, Financial Services and Capital Markets Union of the European Commission* and presented at the *European Securities and Markets Supervision Authority's ('ESMA') Task Force on Initial Coin Offerings and Virtual Currencies* to ESMA staff and other European regulators. During these meetings, the MFSa presented and provided a high-level overview of the MFSa's approach on the classification and regulation of DLT assets. The MFSa also explained the policy framework that the Authority devised which aims at supporting the innovation and new technologies for financial services in the area of virtual currencies whilst ensuring effective investor protection, market integrity and financial stability.

During the months of June and July 2018, the MFSa hosted representatives from the *Federal Financial Supervisory Authority's (BaFIN) Securities and Markets Division* and visited the offices of *Autorité des Marchés Financiers ('AMF')* to share the MFSa's experience in devising a legal and regulatory framework for those DLT assets qualifying as virtual financial assets.

The objective behind these interactions is to strengthen relationships with European bodies, authorities and regulators whilst encouraging international cooperation in this field of financial services.

## Requirements regarding applications for a licence to provide Investment-based Crowdfunding services published

The Malta Financial Services Authority has published the requirements regarding applications for a licence to provide Investment-based Crowdfunding services.



Crowdfunding is a popular medium that creates opportunities for connecting investors and businesses seeking to finance their projects, and facilitates the provision of platform-based intermediation services.

The Requirements published today outline the manner in which investment-based crowdfunding services may be authorised and regulated under the Investment Services Act, and shall apply in conjunction with the “Investment Services Rules”, “Conduct of Business Rules”, and any other relevant Regulations issued under the Act.

These Requirements have been formulated in the light of the applicable frameworks including Markets in Financial Instruments Directive (MiFID) as well as feedback received in the course of public consultations following the publication of the MFSA Discussion Paper on Investment-Based Crowdfunding of 03/11/2016 and subsequent Feedback Statement published on 06/10/2017.

The Requirements seek to establish a regulatory framework which fosters investment and facilitates access to finance for start-ups and early growth companies within a flexible yet reliable environment. For this purpose the Requirements aim to strike a balance between providing adequate incentives for investment and safeguards for investors.

The framework seeks to enable investors to invest their preferred amount in promising businesses within parameters that promote investment awareness and encourages the spreading of risk by retail investors.

Due importance is given to proportionality in relation to the regulation of investment crowdfunding platforms, as the applicable rules might vary depending on the size of the applicant and the proposed business model, as well as the nature and complexity of the business being carried out on the relevant platform.

This approach recognises the variety of business models adopted in the industry and requires that these be assessed in terms of the applicable legislation.

Investment instruments that may be marketed via the applicants’ platforms include equity and types of debt securities normally associated with this kind of investment activity.

The MFSA wishes to highlight that the investment opportunities offered via crowdfunding platforms carry a significant degree of investment risk. Risks usually linked to this type of investment include a high rate of failure, low returns, and difficulty to sell or redeem.

It is important for investors to understand the risks involved prior to taking an investment decision by carefully reading the literature provided by issuers and platform providers as well as carrying out their own research and seeking qualified assistance where required.

The Authority also draws investors' attention to the importance of diversifying their investments and limiting their crowdfunding investments to a proportion of their available investment funds. Further information on this subject is available through this link: <http://www.mfsa.com.mt/pages/announcement.aspx?id=11355>

---

## Feedback on insurance related Consultation Documents

On the 16th July 2018 and on the 8th May 2018, the MFSA issued two Consultation Documents relating to Insurance Distribution Rules on [Knowledge and Ability, Continuous Professional Development](#) and [Ancillary Insurance Intermediaries](#), as part of the transposition exercise of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), (the "Insurance Distribution Directive").

Further to the said Consultation Document, the MFSA is issued a Feedback Statement on the comments received in relation to the proposed amendments to the above mentioned Insurance Distribution Rules.

Moreover, the MFSA has issued a Circular on the new Insurance Distribution (Exemption) Regulations, 2018 (L.N. 237 of 2018) in relation to the services of persons who are currently exempted from the requirement of registration or enrolment under the Act, in terms of regulation 3 of the Insurance Intermediaries (Exemption) Regulations, 2006.

These documents are available on the MFSA website. Any queries are to be addressed by email on [idd@mfsa.com.mt](mailto:idd@mfsa.com.mt).

---

## European Commission gives positive forecast on Maltese economy

The European Commission expects economic growth in Malta to remain robust over the forecast horizon fuelled by growth in domestic demand.

This economic momentum is expected to further support employment creation, on the back of record-low unemployment and increasing labour supply. The latter, it adds, reflects the inflows of foreign workers and the rising participation of women in the labour market.

Investment is also expected to grow strongly in 2019, supported by projects in the health, technology and telecoms sectors.

The 2018 Summer Forecast positively notes that moderate wage dynamics and regulated prices in the electricity market have helped keep inflation slightly below the euro area average. Inflation is expected to gradually pick up but remain under the 2 per cent, next year.

The European Commission further acknowledges that Malta's sizeable current account surplus was sustained reflecting the solid performance of the internationally-oriented services sector.



## MFSA Educational Consultative Council (ECC) publishes Annual Report



### Education Consultative Council

The Educational Consultative Council (ECC) of the MFSA has published its Annual Report for 2017.

Amongst educators at post-secondary and tertiary levels the ECC's profile continued to grow and a number of requests from new institutions to join the Council were received. The new membership of the recently created Malta Stock Exchange Institute was a very welcome event, and others are in the pipeline of consideration.

Introducing the Report, ECC Chairman Dr John Consiglio noted that "at every meeting of the ECC all members give details of their ongoing training and education activities. This exercise is carried out with a "two-eyes" approach, i.e. towards the past as well as to the future. In the latter context there is a high sense of expectancy regarding what will be the manner, formats, and expected impacts of government's efforts to move towards the centre of the employment/education debate the most important topic of Vocational Education and Development. The MFSA ECC's members are eager to know how this approach will be tackled in the country's education laws, how training bodies such as our members will be impacted, and also of course how financial services employer firms will be impacted upon in their human resources take-up, development, and promotion policies and actual internal operating."

During 2017 the usual very important activities of supporting apprenticeship schemes, participation in conferences, participation in career fairs, job exposure activities, and visits to MFSA by schools and other organisations continued, even whilst the constituent ECC member bodies kept up their own individual very impressive training programmes.

Dr Consiglio added that "as leaders at the helm of the ECC we are of course fully aware that indeed even in the case of financial education we are here involved in a sector which in itself is also very much of a competitive market. All ECC member bodies want and need to continue to survive and develop themselves. Indeed there is a bottom-line requirement for them all too. But even within such a reality it is simply admirable to see how they all still cooperate and work together within the context of this ECC's remit terms. So a heartfelt thank you to all of our members for this."

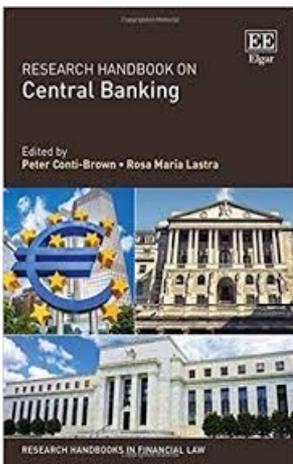
#### *About the ECC*

The ECC seeks to act as a forum for debate, coordination and information-sharing on matters relating to training and career development for current and prospective employees within the Financial Services Sector. 2017 has been a year of further development.

In addition, the Council debates policies and procedures which members themselves would like to see introduced or modified. Moreover, it reviews relevant local and international developments related to training and career developments, as well as towards the filling of any skills gaps that may be identified within the Financial Services Industry from time to time.

## Book Review: Research Handbook on Central Banking

*Conti-Brown P. & Lastra R.M. (eds) (2018) – ISBN 978 1 78471-921-0 - (Edward Elgar).*



Some two decades after the European Council, in June 1988, took the decision to give a start to EMU, with one of its main actions being that of creating a European Central Bank, an acute debate was under way among both academia and economic operators about whether the whole concept of central banks and central banking had reached station's end. After all, there were many asking, what is it that central banks still do, after the birth of the Frankfurt behemoth, that other public or private bodies cannot do? In the Financial Times of January 22 and in that of Sept 3, of 1993, Holtham G., Hopkin B. and Wass D. they were all arguing their cases on, respectively, there being "no case for an independent central bank", and "the flaws in (so-called) central bank freedom".

Well this book gives the most complete of answers that one could wish for on these issues. This is a bringing together of no less than 27 in-depth studies, by no less than 37 researchers, with amongst them some of the most important current names. The LSE's Charles Goodhart, the BOE's Andrew Haldane, the FDR's Ellen E. Meade, the BIS's Claudio Borio, and so many other famous names are all here with absolutely absorbing papers on so many different aspects of central banking.

In the popular mens central banks are often not much more than abstractions. In detailed reality they are indeed the gel that in all advanced, or even still advancing, economies, reacts, or even pro-acts, to events that attack price and financial stability, and all the difficulties of attaining and maintaining them. To say that the central banks in the US, Europe, and the Asian giants, play a follow-me-if you-will, and/or ignore-me-at your-peril, time beater's drum-beat, easily provokes conventional antipathy towards international neo-colonialist stances. But this book, especially Andrew G. Haldane's paper on Central Bank Psychology, totally redimensions the various faces of this theme. Similarly in-depth topics which one finds studied here include certain hot potatoes like central bank independence, central bank accounting, central banks and payment system risks, central banks and digital currencies, and transparency itself of central bank policies.

This latter area of transparency of central bank policies, plus that old chestnut of the lender of last resort role (ask the former National Bank of Malta shareholders about it!), monetary policy and central banking (inevitably), and detailed studies about the BOE, central banking in Japan, India, Russia, China (two excellent papers), sub-Saharan Africa, Germany, Australia and New Zealand, Latin America, the ECB and European currency union, these are indeed all topics which really make this volume a thoroughly comprehensive and very impressive coverage of central banking over practically the whole world and all related topics. This is a profoundly innovative and interdisciplinary book...it's almost demeaning to label it a handbook..... and indeed no central banker or monetary economist can afford to be without it.

Dr. John A. Consiglio

*Dr Consiglio is a Member of the MFSA Board of Governors and Chairman of the MFSA Educational Consultative Council (ECC)*

## MFSa Circulars

- 11/07/2018** - [Self-assessment in relation to the evaluation of potential closet indexing practices adopted by UCITS and Retail AIFs](#)
- 12/07/2018** - [Circular on the Publication of New Insurance Distribution Rules](#)
- 13/07/2018** - [Circular: ESMA MiFID II / MiFIR Investor Protection Q&As](#)
- 13/07/2018** - [Circular: ESMA Q&As on Product Intervention Measures](#)
- 13/07/2018** - [EIOPA Q&As on requirements emanating from the Insurance Distribution Directive \(“IDD”\)](#)
- 18/07/2018** - [Circular on the European Market Infrastructure Regulation \(“EMIR”\) - CCPs Established in the UK](#)
- 25/07/2018** - [Circular to investment services licence holders which qualify as MiFID firms regarding the Joint ESMA and EBA Guidelines on the assessment of suitability of members of the management body and key function holders](#)
- 31/07/2018** - [Circular relating to the new Insurance Distribution \(Exemption\) Regulations, 2018 \(L.N. 237 of 2018\)](#)
- 31/07/2018** - [Circular: ESMA Q&As on Product Intervention Measures](#)
- 31/07/2018** - [Circular with regards to the Member of the Board of Directors and the person within the management structure of the Undertaking responsible for the distribution activities of an insurance undertaking](#)
- 

## MFSa Consultation Documents & Feedback Statements

- 04/07/2018** - [Consultation Paper on the Virtual Financial Assets Regulations to be issued under the Virtual Financial Services Act](#)
- 12/07/2018** - [Consultation Paper on the Virtual Financial Assets Rules for VFA Agents](#)
- 30/07/2018** - [Consultation Paper on the Virtual Financial Assets Rules for Issuers of Virtual Financial Assets](#)
- 31/07/2018** - [Feedback Statement issued further to Industry Responses to MFSa Consultation Document relating to Insurance Distribution Rules on Knowledge and Ability, Continuous Professional Development and Ancillary Insurance Intermediaries](#)
- 

## MFSa Media Releases

- 05/07/2018** - [Consultation on the Virtual Financial Assets Regulations to be issued under the Financial Assets Act](#)
- 12/07/2018** - [Consultation on the Virtual Financial Assets Rules for VFA Agents](#)
- 13/07/2018** - [Requirements Regarding Applications For A Licence To Carry Out Investment-Based Crowdfunding Under The Investment Services Act](#)
- 20/07/2018** - [Publication of the Virtual Financial Assets Act](#)
- 24/07/2018** - [Publication of the Financial Instrument Test](#)
- 30/07/2018** - [MFSa - Malta leading the way in the regulation of Distributed Ledger Technology and crypto assets](#)
- 30/07/2018** - [Consultation Paper on the Virtual Financial Assets Rules for Issuers of Virtual Financial Assets](#)
-

## MFSa Warnings

23/07/2018 - [MFSa Warning - "FXenergy"](https://www.fxenergytrade.com/#/) - <https://www.fxenergytrade.com/#/>

26/07/2018 - [MFSa Warning - Marantino Capital Ltd - OnlyTrades](http://www.onlytrades.com/) – <http://www.onlytrades.com/>

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

## European Supervisory Authorities' Announcements

03/07/2018 - [EBA assesses risks and opportunities from Fintech and its impact on incumbent's business models](#)

06/07/2018 - [ESMA seeks candidates for its stakeholders Group](#)

12/07/2018 - [EBA issues recommendation to the Maltese Financial Intelligence Analysis Unit in relation to its supervision of Pilatus Bank](#)

## MFSa Licences – July 2018

### New Licences

#### Collective Investment Schemes

##### *Professional Investor Funds targeting Qualifying Investors*

- Collective Investment Scheme Licence issued to **ZSB Systematic Equity Long-Short Fund IC SICAV plc** ("the Scheme") as an incorporated cell of AKJ RICC Limited.
- Collective Investment Scheme Licence issued to **PMG Partners SICAV plc** ("the Scheme") in respect to one sub-fund.
- Collective Investment Scheme Licence issued to **Mercurios SICAV plc** ("the Scheme") in respect to one sub-fund.

##### *Notified Alternative Investment Funds targeting Professional and Qualifying Investors*

- **MDC Astrolabe SICAV plc** in respect of two sub-funds included in the List of Notified AIFs in terms of Regulation 6 of the Investment Services Act (List of Notified AIFs) Regulations 2016

#### Securitisation Vehicles

##### *Notified Securitisation Vehicles*

- Acknowledgement issued to **Oceanwood Crown S.V. Limited**.
- Acknowledgement issued to **Axion Securitisation SCC plc**.
- Acknowledgement issued to **Noku Cell**.
- Acknowledgement issued to **Demetra Cell**.

**Extended and Revised Licences****Investment Services**

- Revision of Category 3 licence issued to **Binary Investments (Europe) Limited** to provide its services in relation to financial contracts for differences (“CDFs”) and rolling spot forex contracts to (a) Retail Clients (b) Professional Clients (including collective investment schemes) and (c) Eligible Counterparties.
- Revision of Investment Services licence issued to **Nexum SICAV plc** (“the Company”) to reflect the Scheme’s conversion from a self-managed to a third-party managed Professional Investor Fund.

**Surrendered Licences****Collective Investment Schemes***UCITS*

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

*Incorporated Cells*

- Surrender of licence issued to **Wake World Equities IC SICAV p.l.c.** (“the Scheme”).
- Surrender of licence issued to **Wake World Equities Hedged IC Sicav p.l.c.** (“the Scheme”).

**Investment Services**

- Surrender of Category 1A licence issued to **FMG Capital Ltd.**
- Surrender of Category 2 licence issued to **Novofina Limited.**
- Surrender of Category 2 licence issued to **Beside Asset Management Ltd.**
- Surrender of Category 2 licence issued to **Greenwich Dynamic Limited.**
- Surrender of Category 2 licence issued to **Tradexec (TEX) Limited.**

**Registry of Companies - New Registrations – July 2018**

Companies	Partnerships
398	8



Training by members of the ECC:

- [Malta International Training Centre](#)
- [Malta Institute of Accountants](#)
- [Malta Stock Exchange Institute \(MSEI\)](#)
- [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](#).



Notabile Road, Attard BKR 3000, Malta

Phone: +356 21 44 11 55; Fax: +356 21 44 11 89

[www.mfsa.com.mt](http://www.mfsa.com.mt) [registry.mfsa.com.mt](http://registry.mfsa.com.mt) [mymoneybox.mfsa.com.mt](http://mymoneybox.mfsa.com.mt) [www.careersinfinance.mfsa.com.mt](http://www.careersinfinance.mfsa.com.mt)