

MFSA Board appoints new CEO

The MFSA Board of Governors has appointed Joseph Cuschieri as the new Chief Executive Officer of the Authority with effect from 24 April 2018. He shall also sit on the Board of Governors of the Authority. This is the first time in its history that the MFSA will have a Chief Executive Officer and a non-executive Chairman following amendments to the MFSA Act announced by Government last year. The new structure which is in line with other European financial services regulators (e.g. Financial Conduct Authority in the UK) was implemented following a consultation with the European Central Bank.

In his new role as Chief Executive Officer of the MFSA, Mr Cuschieri shall be responsible for the overall management and performance of the Authority, strategy development/implementation including reforms in the financial services sector.



Mr Joseph Cuschieri - Chief Executive Officer

A Certified Public Accountant by profession and a fellow member of the Malta Institute of Accountants, Mr Cuschieri is specialised in management accounting, corporate finance, economic regulation and general/business management. He also holds a Masters Degree in Business Administration from Henley Management College, UK and an Advanced Diploma in Management Accounting from the Chartered Institute of Management Accountants (CIMA), UK.

Throughout his professional career spanning 25 years, he held various finance related roles, senior executive positions and directorships within the private and public sector amongst which Head of Corporate Affairs and then Chief Commercial Officer at Vodafone Malta, Chief Operating Officer at the Malta Communications Authority, senior consultant with EY and prior to joining the MFSA he held the position of Chairman and CEO at the Malta Gaming Authority since November 2013.

During his time at Vodafone, Mr Cuschieri was involved in key regulatory projects both in Egypt and Turkey. Furthermore, he spent a period of eighteen months enrolled on the Vodafone Group's global leadership development programme. He has vast experience in economic regulation particularly in the electronic communications and technology sectors where he was involved in major reforms in the telecommunications sector during his time at the Malta Communications Authority. Mr Cuschieri is also a member of the Blockchain task force where he was involved in the development of a new regulatory framework for virtual currencies and distributed ledger technology. At the helm of the Malta Gaming Authority, Mr Cuschieri focused on reforming the governance of the gaming sector including a major legislative overhaul which led to the tabling of a new Gaming Bill in Parliament.

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Appointment of two new Governors

Moreover, the Parliamentary Secretariat for Financial Services, Innovation and Digital Economy announced that given the dynamism of the financial services sector with new niches being set-up, and also keeping in mind the government's policies in areas such as fintech and the regulation of virtual currencies, ICOs, exchanges and related services, the need for new governors with expertise in these new areas arose and for this reason Mr Andre Psaila and Mr Mario Borg were also appointed as new governors of the Malta Financial Authority.

The new Board of Governors of the MFSA shall now be composed as follows:

Prof John Mamo – Chairman, Mr Joseph Cuschieri – CEO, Mr Mario Borg, Dr Joseph Brincat, Mr Frans Camilleri, Dr John Consiglio, Dr Lauren Ellul, Mr Andre Psaila, Dr Mario Vella, Mr Herbert Zammit Laferla

ICOs and Virtual Currencies: MFSA consults on Financial Instrument Test

The MFSA Discussion Paper on Initial Coin Offerings, Virtual Currencies and Related Service Providers (Reference No. 08-2017) ('the Discussion Paper'), issued on 30 November 2017, proposed the introduction of a 'Financial Instrument Test' ('the Test'). The objective of the Test will be that of determining whether a Distributed Ledger Technology ('DLT') asset¹, based on its specific features, falls within the ambit of either the traditional European and local financial services legislation or the proposed Virtual Financial Assets Act² ('VFAA') or is otherwise exempt from regulation.



Citing the need for clarity and legal certainty, the majority of respondents agreed with the MFSA's proposal to introduce the Test. Having carefully considered the feedback received, the MFSA is considering the introduction of the Test as a mandatory requirement under the VFAA, applicable both within the context of an Initial Coin Offering ('ICO') as well as during the intermediation of DLT assets, which may qualify as virtual financial assets.

It is proposed that non-licensed persons providing a service or performing an activity in relation to a DLT asset, in or from within Malta, will also be required to conduct the Test to determine the applicable regulatory framework.

As a further step taken by the MFSA towards achieving a comprehensive regulatory framework for the regulation of virtual currencies in Malta with aim of achieving investor protection and market integrity in this field of business, the MFSA is pleased to announce the publication of a Consultation Paper on the Financial Instrument Test (Reference No. 04-2018). The consultation period shall remain open until the 4 May 2018.

A detailed statement summarising all the feedback received by the MFSA on the Discussion Paper, setting out the MFSA's response and position thereto, will be issued in early course. Any queries in relation to this circular can be addressed to fintech@mfsa.com.mt.

MFSA consults on rules related to the acquisition and preservation of pension rights

On 30th April 2014, Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights, (the “EU Mobility Directive”) was published in the Official Journal of the European Union. The said Directive entered into force on the 21st May 2014.

The EU Mobility Directive lays down rules aimed at facilitating the exercise of the right of workers to freedom of movement between Member States by reducing the obstacles created by certain rules concerning supplementary pension schemes linked to an employment relationship. Member States are required bring into force the necessary provisions to comply with the EU Mobility Directive by the 21st May 2018. 1.2 Article 2 of the EU Mobility Directive lists the scenarios to which the provisions of the said Directive are not applicable.

Moreover, in terms of paragraph 4 of the said article, the EU Mobility Directive applies only to periods of employment falling after the 21st May 2018. 1.3 Occupational Retirement Schemes established on a voluntary basis which are duly licensed under the Retirement Pensions Act (Cap. 514) to provide retirement benefits, as well as Retirement Scheme Administrators administering such Schemes, fall within the scope of the EU Mobility Directive.

Therefore, since Occupational Retirement Schemes and Retirement Scheme Administrators will be required to take into account and operate in line with the minimum requirements laid down in the said Directive, the MFSA proposes to include and reflect such minimum requirements in a new Appendix in Part C of the Pension Rules for Occupational Retirement Schemes. The said Appendix is being issued for Consultation together with this same Consultation document.

Any comments and feedback in relation to the attached draft Appendix is to be addressed to the Insurance and Pensions Supervision Unit and submitted in writing on ipsu@mfsa.com.mt by not later than Friday 11th May 2018.

The consultation document can be downloaded on <https://goo.gl/wFRvkx>

MFSA amends FAQ on AIFMD

The Malta Financial Services Authority has today published on its website a revised version of its Frequently Asked Questions document concerning the Alternative Investment Fund Managers Directive which was originally issued on 6 February 2014.

The revised FAQ provides an update on the Obligations for AIFMs managing AIFs which acquire control of non-listed companies and issuers under Article 27 of the AIFMD. The document is available for download from the MFSA website through the following link:

https://www.mfsa.com.mt/pages/readfile.aspx?f=/Files/AIFMD/20180425_AIFMD_FAQ-General.pdf

General queries in relation to the AIFMD are to be addressed to the Securities and Market Supervision Unit at: funds@mfsa.com.mt.

ESMA MiFID II / MiFIR Investor Protection Q&As

MiFID II came into force as from 3 January 2018 with the aim to strengthen the protection of investors by introducing new requirements and reinforcing existing ones. ESMA has produced a Q&A to promote common supervisory approaches and practices in the application of MiFID II/MiFIR for investor protection topics.

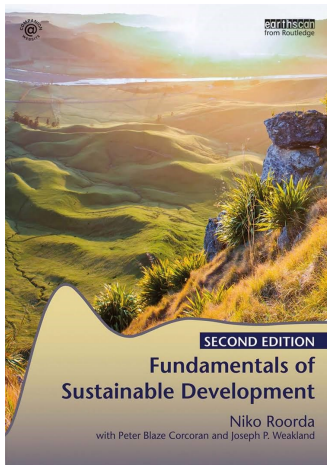
The European Securities and Markets Authority (ESMA) has included seven (7) new or updated items in its [Questions & Answers](#) document on the implementation of investor protection topics under the Market in Financial Instruments Directive and Regulation (MiFID II/ MiFIR). The updated Q&As are on the topics of inducements (research) and information on costs and charges. The other four Q&As are new and relate to the topics of inducements, post-sale reporting and other issues.

The content of this document is aimed at competent authorities and investment firms by providing clarity on the application of the MiFID II and MiFIR requirements. It should be noted that the content of this document is not exhaustive and it does not constitute new policy. Next Steps ESMA will continue to develop this Q&A on investor protection topics under MiFID II in the coming months, both adding questions and answers to the topics already covered and introducing new sections for other MiFID II investor protection areas not yet addressed in this Q&A.

ESMA will periodically review these Q&As on a regular basis to update them where required and to identify if, in a certain area, there is a need to convert some of the material into ESMA Guidelines and recommendations.

Book Review

ROORDA, Niko (2017 – Fundamentals of Sustainable Development – (Routledge, Oxon – ISBN 978-1-138-09265-5)



Even as the publishers of this volume most evidently must have first conceived it as a working textbook for advanced tertiary education students (indeed it also comes with a website and over forty video clips!), there is so much in it that transcends our normal expectations of economic development theory. When reviewing the book in *The News on Sunday* Professors Ercelars and Shah made the very important point that the impact of development needs to be considered *beyond* the narrow focus of economic, ecological, or social concerns.

Even we here in Malta are now - as we begin to possibly think about that famous Club of Rome *leit motif* on *The Limits of Growth* – aware that, whether we like it or not, there is so much, and certainly not more, that can be dragged out of finite resources.

Routledge have published this excellent study within the range of their “Eartscan” programme of books. This is not to say that the topics are restricted to within the borders of man and nature. Perhaps we are all still arguing what exactly we need to include in our vision of “sustainability”. For many it seems as if it is all about simply continuing to do what is being done now, and in the way we do it now. Others move to the other extreme of adieu to the “now” and only argue about the “later”. Others still, spiritually and restrictedly, transcend the material or materialistic. And perhaps too the dichotomy about the two dimensions of here and there, now and later, is dealt with far too easily.

All of us are often tempted into selfishly considering sustainable development limitedly within some sort of SWOT analysis that regrettably is founded on personal considerations, both now and into the future. In chapters two and three the author wisely sees the flaws in such a fabric and lingers at length on the relationships of, first, people and nature, and then people and society.

In an optimistic vein he then treats what international organizations, people, entrepreneurship, and students too, factually are as sources of vigour for the sustainable development goals that he conceives.

Nick Gray, professor at Trinity College in Dublin considers equity (among people) as arising from insufficient recognition of ecology (around the planet) as being fundamental in the economy of growth. He rightly sees growth defined simply in pure terms of profits as irresponsible. Part Two of this fine book is an extensive treatment of solution strategies, and the book then goes on to deal with several lessons from history, various types of growth models, a full chapter on climate and energy, and finally various case studies dealing with CSR, corporate governance, sustainable products and services, the often hoped for effective circular economy, and future-oriented entrepreneurship. Is the last theme of the book – the “sustainably competent professional” – a dream? Readers will emerge in an optimistic vein, and that perhaps is, after all, what really makes this a most absorbing book.

John Consiglio

MFSA Circulars

- 06/04/2018 - [Circular: ESMA MiFID II / MiFIR Investor Protection Q&As](#)
- 10/04/2018 - [Update to Circular to Payment Institutions and Electronic Money Institutions on the ongoing own funds requirements](#)
- 11/04/2018 - [Circular on Markets in Financial Instruments Directive \('MiFID II'\) and Markets in Financial Instruments Regulation \('MiFIR'\) - Reporting of Corporate Actions](#)
- 11/04/2018 - [Circular on the revised Financial Markets Rules for Trading Venues, DRSPs and Central Securities Depositories](#)
- 18/04/2018 - [Supervisory Guidance Paper on ML and TF Institutional/Business Risk Assessment](#)
- 23/04/2018 - [Circular to the Financial Services Industry on the Securities Financing Transactions Regulation No 2015/2365 \('SFTR' or 'the Regulation'\) - Requirements affecting, inter alia, Managers of UCITS and AIFs](#)
- 24/04/2018 - [Circular to the industry on the Survey by UK's Financial Conduct Authority \("FCA"\) for EEA firms passporting into the UK](#)
- 25/04/2018 - [Circular to the financial services industry in relation to the publishing of a revised version of MFSA's Frequently Asked Questions document concerning the AIFMD](#)

MFSA Consultation Documents

- 13/04/2018 - [Consultation Paper on the Financial Instrument Test](#)
- 20/04/2018 - [Consultation Document on Pension Rules Implementing Minimum Requirements on the Acquisition and Preservation of Pension Rights](#)

MFSA Media Releases

- 02/04/2018 - [Public statement by the Malta Financial Services Authority in relation to Pilatus Bank](#)
- 13/04/2018 - [Appointment of MFSA Chief Executive Officer](#)

MFSA Warnings

- 05/04/2018 - [MFSA Warning - Stocksbtcc - https://stocksbtcc.com/](#)

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



MFSA Licences – April 2018

New Licences

Securitisation Vehicles

Notified Securitisation Vehicles

- Acknowledgement issued to **Aenea Cell**

Cells

- Acknowledgement issued to **SI Projects ZERO Coupon AC Securities SCC Limited Cell Long Term Brazil Number One**
- Acknowledgement issued to **AC Securities Cell 3 CCBA Crypto Currency Note**
- Acknowledgement issued to **Cell Kout**

Collective Investment Schemes

Alternative Investment Funds

- Collective Investment Scheme licences issued to **Audentia Capital AIF SICAV plc** (“the Scheme”) in respect to two sub-funds.
- Collective Investment Scheme licence issued to **Narratus Capital IC SICAV plc** (“the Scheme”) as an incorporated cell of AKJ RICC Limited.
- Collective Investment Scheme licence issued to **CTH SICAV plc** (“the Scheme”) in respect to one sub-fund.
- Collective Investment Scheme licence issued to **Global Garden SICAV plc** (“the Scheme”) in respect to one sub-fund.
- Collective Investment Scheme licence issued to **Bastion Wealth Strategies SICAV plc** (“the Scheme”) in respect to one sub-fund.

Professional Investor Funds targeting Qualifying Investors

- Collective Investment Scheme licence issued to **Art & Value SICAV plc** (“the Scheme”) in respect to one sub-fund
- Collective Investment Scheme licence issued to **Pinnacle Absolute Return Global Alpha Fund IC SICAV plc** (“the Scheme”) as an incorporated cell of AKJ RICC Limited.

Notified Alternative Investment Funds targeting Professional and Qualifying Investors

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

Investment Services

- Category 2 licence issued to **24 Capital Management Limited**
- Category 2 and 4a licence issued to **Dolfin Asset Services Limited**

Extended and Revised Licences**Banking***Financial Institutions*

- Extension of licence issued to **EPG Financial Services Limited** to provide additional payment service activities and electronic money activities as per Activity 4 and Activity 10 of the First Schedule of the Financial Institutions Act

Surrendered Licences**Investment Services**

- Regulatory Cancellation of Category 2 licence issued to **Intrepid Capital Limited**
- Surrender of Category 2 licence issued to **Skilling Group Limited**

Collective Investment Schemes*Professional Investor Funds*

- Surrender of licence issued to **Meridon Funds SICAV plc** (“the Scheme”) in respect to one sub-fund

Registry of Companies - New Registrations – April 2018

Companies	Partnerships
435	11



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](#).



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