

Newsletter



MFSA

MALTA FINANCIAL SERVICES AUTHORITY



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MFSA sees further growth in 2018

The robust economic growth experienced by Malta in recent years has been conducive to further growth and expansion in various segments of the financial services industry.

Throughout 2018, banks that are more closely linked to the domestic economy have experienced further growth in business and considerable expansion in their asset base. Lending to businesses has also picked up on the back of increased demand following a period of corporate balance sheet consolidation indicating that current levels of bank profitability can be sustained going forward. Meanwhile the international banking sector continues to do well in established niche areas such as loan syndication, trade finance and factoring, micro- and consumer lending, corporate banking and asset finance.

During the year, the banking sector received positive reports from credit rating agencies, while the International Monetary Fund described the banking sector as “profitable and well-capitalized”, also remarking on the continued improvement in banks’ asset quality. Ratings agency Fitch, has given Malta’s economy a clean bill of health as it confirmed its A+ rating and has praised the quality of Malta’s banking standards. However the MFSA is planning to publish a long term strategy for banking in

Malta which will include a plan for major reforms in legislation.

2018 has also seen an increase in new insurance companies establishing themselves in Malta as a number of international groups seek to reposition themselves in the European insurance market. Malta’s sophisticated legal framework, wealth of insurance management expertise, access to EU markets and dynamic business environment continue to offer the best operating conditions for this type of activity. Meanwhile interest in the investment services sector is experiencing a surge as Malta’s virtual financial assets framework kicks in, providing an added boost to this consistently high performing sector.

The MFSA continued to strengthen its role as the financial regulator in the various sectors it operates, this certainly has been the year which propelled Malta as a leader in FinTech, with the enactment of the first framework for Virtual Financial Assets globally. The framework being developed by the MFSA for Virtual Financial Assets puts priority on market integrity and financial soundness while being efficient and working hand in hand with industry. The Authority looks forward to continue on this path in the next months, including through the launch of our Vision 2021 and FinTech strategy.

The MFSA’s priorities for 2019 will be focused on reforms to the legislation, investment in human resources and technology and the overall transformation of the MFSA; but also in becoming a leader in the FinTech space. Such investment in technology will be focused not solely on FinTech but across all areas of the Authority’s activities and will be made up of amongst others, business intelligence tools, regulatory technology, licensee relationship management and knowledge management platforms.

In order to improve its efficiency, during the new year the Authority will be implementing significant changes to its organisational structure with the aim of addressing supervisory fragmentation, improve operational efficiency, ensuring efficacy in the decision making process, and place focus on knowledge management, technology and innovation.

VFA issuers requested to present Whitepaper to MFSA

The Virtual Financial Assets Act (Chapter 590 of the Laws of Malta) ('the Act') came into force on 1 November 2018. Persons undertaking an activity in terms of Article 3 of the Act and either [i] availing themselves of the transitory period under Article 62(1)(a) of the Act, or [ii] falling within scope of the exemption under Regulation 3 of the Virtual Financial Assets Regulations (Subsidiary Legislation 590.01 of the Laws of Malta) ('the Regulations') but will continue their offering after the 31 January 2019, are required to draw up a Whitepaper and register it with the MFSA by no later than 31 January 2019.

To assist Applicants in the preparation of their submissions, the MFSA has released Annex I to the Whitepaper Registration Form that will be a mandatory upload in the online form that will be released by the MFSA. In this Annex, Applicants are requested to provide descriptions in relation to the content of their Whitepaper as per the First Schedule of the Act and to specify the relevant sections in the Whitepaper within which this content can be found. Together with the said Annex, it is recommended that Applicants prepare the following for their online submissions:

- a Whitepaper drafted in accordance with the Act;
- details of the person appointed in accordance with Section 3.2 of this Circular;
- details of the issuer;
- a populated copy of the final version [Financial Instrument Test](#) ('the Test') of the respective VFA which is duly signed by the person appointed in accordance with the Section 3.2 of this Circular. The Test currently available on the MFSA website is in beta version. The final version of the Test will be released in the coming days;
- evidence of the fitness and properness assessment carried out on the issuer by the person appointed in accordance with Section 3.2 of this Circular, in terms of [Chapter 1 of the Virtual Financial Assets Rulebook](#); and
- the Independent Systems Auditor's Opinion.

Further updates and developments on the Virtual Financial Assets Framework will be made public on: www.mfsa.com.mt/vfa. Should there be any queries in relation to the above, do not hesitate to contact us on fintech@mfsa.com.mt.

Trusts Ultimate Beneficial Ownership Register

The Trusts and Trustees Act (Register of Beneficial Owners) Regulations (“the Regulations”), published on the 20th December 2017 by virtue of Legal Notice 373 of 2017, transposed into our law the provisions of Article 31 of Directive (EU) 2015/849 of the European Parliament and of the Council of the 20th May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, more commonly known as the 4th AMLD. These provisions relate to beneficial ownership information, including inter alia, the register of beneficial owners, in so far as these provisions are applicable to trusts and trustees.

As a result of the coming into force of these Regulations on the 1st January 2018, any licensed trustee who is appointed as trustee for a trust which generates tax consequences in Malta, is required to submit a declaration of beneficial ownership for every such trust to the Malta Financial Services Authority (“MFSA”). The declaration includes the details indicated in the Regulations, including those related to the trustee, settlor, protector, beneficiaries or class of beneficiaries as well as any other person exercising control over the said trust. The Regulations provided licensed trustees, who prior to

the 1st January 2018 had been appointed trustees of trusts which generate tax consequences, with a transitory period within which to submit the required beneficial ownership information, which period expired on the 1st July 2018. The MFSA also published Frequently Asked Questions on its website in order to assist trustees in submitting the required declarations of beneficial ownership.

The Regulations specifically indicate the parties who have access to the beneficial ownership information. The parties who may request access to the beneficial ownership register are (a) various national competent authorities, as indicated in the Regulations, which also include the FIAU, national tax authorities and the Police, to whom unrestricted access is granted by law, and (b) subject persons as defined under the Prevention of Money Laundering and Funding of Terrorism Regulations (“PMLFTR”) for the purpose of conducting customer due diligence work when establishing a business relationship, or carrying out an occasional transaction in relation to such trust, and which access may therefore be restricted and granted upon fulfilment of certain conditions outlined in Regulation 6(1)(b) of the Regulations.

In order to facilitate the electronic submission of beneficial ownership information by the trustees who are to submit the said declarations and to provide electronic access, in the varying levels outlined above, to the parties entitled to access such beneficial ownership information, the MFSA has developed and launched an online platform for the Trusts Ultimate Beneficial Ownership Register (“TUBOR”). Information sessions were held with representatives of the national competent authorities, subject persons and authorised/registered trustees on the 8th, 9th and 10th January 2019 respectively in order to provide an update on the online platform developed for TUBOR. During the training sessions representatives of the said parties were provided with details about the information held on TUBOR, the registration process for online access to TUBOR, the way in which searches can be carried out by registered users on TUBOR, the manner in which declarations of beneficial ownership of trusts are to be inputted by trustees through the online register as well as the MFSA’s expectations in such regard.



MFSA publishes amendments to Pension Rules

Further to the [Consultation Document](#) dated 6th December 2017 and the [Consultation document](#) dated 16th November 2018 on the various amendments to the Pension Rules for Personal Retirement Schemes issued under the Retirement Pensions Act , (Cap.514), the MFSA published the amendments to the Pension Rules for Personal Retirement Schemes (Parts A and B) and Appendices 1 to 5 of Part C to the said Rules on the MFSA website on the 28 December 2018 .

The amendments to the Pension Rules for Personal Retirement Schemes came into force on the 1st January 2019. The amendments related to the 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.

Moreover, the amendments to the Pension Rules for Personal Retirement Schemes also sought to address issues relating to the form of member-directed schemes, the grounds for member-direction, the investment restrictions to be complied with, the role of the Retirement Scheme Administrator, the respective roles and responsibilities of all the parties involved in the context of member-directed Schemes, and the provision of more detailed information to be given to the members of personal retirement schemes.



MFSA issues further clarifications on submissions of PQs

Reference is made to the circular dated 1 st November 2018 which was addressed to all Entities and Applicants who are being proposed to hold a position which requires the MFSA's prior approval. As indicated in the Guidelines and the video accessible on the MFSA's website, a PQ has to be completed directly by the Applicant.

The MFSA is still receiving a number of PQs which are submitted through the Entity's profile on the LH Portal as opposed to the individual's personal profile on the LH portal.

In this context the following is being highlighted:

- PQs are to be completed only by the Applicant who is being proposed to hold an approved position and not by any other person, service provider or the compliance officer.
- Registration on the LH Portal is to be done by the Applicant using his/her personal email address and not the business email address. The rationale behind this is that business email addresses may change with time and this can disrupt the data which pertains to the same Applicant, including subsequent submissions of PQs. Applicants who would like to change the email address with which they registered are requested to contact the MFSA on pq@mfsa.com.mt for further guidance.
- Password sharing is completely unacceptable.

Entities and Applicants are required to protect their log-in details due to the sensitivity of the information.

The Authority is in the process of compiling an FAQ document which will be issued and updated on a regular basis. For any additional queries that you may have please direct them to pq@mfsa.com.mt.



Guidelines on certain aspects of the MiFID II Suitability requirements

The European Securities and Markets Authority (ESMA) has published its MiFID II Suitability Supervisory Briefing document. MiFID II and the MiFID II Delegated Regulation place various requirements on firms when providing investment advice or discretionary portfolio management services that do not apply when providing other investment services. Notably, these include requirements to ensure that (when providing advice) any personal recommendations made or (when providing discretionary portfolio management services) any discretionary investment decisions taken on behalf of clients are suitable for each client, as required under Article 25(2) of MiFID II. The assessment of suitability is one of the most important requirements for investor protection in the MiFID II framework. Scope The MiFID II Suitability Supervisory Briefing document is meant to give market participants indications of compliant implementation of the MiFID II suitability provisions.

The MFSA has published a Circular to assist licence holders on the matter. This can be downloaded through this [link](#).

This is of particular interest to Investment Firms and Credit Institutions when providing investment advice and portfolio management. Compliance officers are expected to ensure that the foregoing requirements are being correctly implemented. Compliance officers are also expected to communicate such requirements to all staff members, particularly to those staff members who are providing investment advice and/or portfolio management services.

For any queries, please contact Ms Sara Antonia Magri, Senior Manager

Conduct Supervisory Unit, Tel 25485250; samagri@mfsa.com.mt; or

Dr Thea Saliba, Analyst – Conduct Supervisory Unit, Tel 25485430; tsaliba@mfsa.com.mt

MFSA staff collects 2,500 euro from Bake Sale for Karl Vella Foundation

Staff at the Malta Financial Services Authority have collected 2,500 euro during a Bake Sale held in the Staff Canteen. Nine teams took part in this event and all contributions received from the Bake sale will be donated to the Karl Vella Foundation.

This Foundation was established to provide educational and psychological assistance to children in families disrupted by serious illness of a family member. The volunteers provide educational support, counselling sessions and organise activities/playgroups in order to help these children academically and also to prevent them from ending up feeling isolated, forgotten and lonely.

Participant teams prepared a delicious mix of savoury and sweets items, with a few culinary surprises from the international members of staff. Reuben Fenech, MFSA Chief Operations Officer, whilst thanking all the participants for their contribution noted that "It is great to have been able to raise these funds with the creativity of our staff members. We see it very positive that members of staff take regular initiatives to raise funds for charity and are active participants in the voluntary sector."



MFSA Circulars

07/12/2018	<u>Circular to Collective Investment Schemes, Fund Managers and Investment Firms licensed in Malta as well as Recognised Fund Administrators in relation to submission of regulatory reporting</u>
10/12/2018	<u>Delay in Disclosure of Inside Information by Issuers</u>
10/12/2018	<u>Circular relating to the submission of online Personal Questionnaires</u>
21/12/2018	<u>Circular: ESMA consults in measures to promote sustainability in EU capital markets</u>
21/12/2018	<u>Invitation – Update on the Trusts Ultimate Beneficial Ownership Register – Authorised/Registered Trustees</u>
27/12/2018	<u>Circular: Guidelines on certain aspects of the MiFID II Suitability requirements</u>
28/11/2018	<u>Circular: ESMA Statement – Reminder to firms on their MiFID obligations on the disclosure of information to clients in the context of the United Kingdom withdrawing from the European Union</u>

MFSA News

17/12/2018	<u>EIOPA announces results of the 2018 Insurance Stress Test</u>
17/12/2018	<u>EBA sees further improvements in EU banks resilience but highlights challenges connected to profitability, funding and operational risk</u>

MFSA Media Releases

06/12/2018	<u>Update on Satabank</u>
07/12/2018	<u>Basic Payment Account – Your right to Basic Banking Services</u>
27/12/2018	<u>MFSA staff collects 2,500 euro from Bake Sale for Karl Vella Foundation</u>

MFSA Licences – December 2018

New Licences

Collective Investment Schemes

Professional Investor Fund targeting Qualifying Investors

Collective Investment Scheme licence issued to **Strategica Funds SICAV plc** (“the Scheme”) in respect to one sub-fund.

Collective Investment Scheme licence issued to **Senglea SICAV plc** (“the Scheme”) in respect to one sub-fund.

UCITS

Collective Investment Scheme licence issued to **AMA UCITS SICAV plc** (“the Scheme”) in respect to one sub-fund.

Collective Investment Scheme licence issued to **AQA UCITS Funds SICAV plc** (“the Scheme”) in respect to three sub-funds

Notified Alternative Investment Funds targeting Professional and Qualifying Investor

PeakBridge Ventures 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.

Alternative Investor Fund

Collective Investment Scheme licence issued to **Comino Umbrella Fund SICAV plc** (“the Scheme”) in respect to one sub-fund.

Insurance

Cells

Approval for **A41** as a cell of **White Rock Insurance (Europe) PCC Limited** to write business of insurance in one class of the general business.

Approval for **A23** as a cell of **White Rock Insurance (Europe) PCC Limited** to write

business of insurance in one class of the general business.

Insurance Undertakings

Licence issued to **EUCARE Insurance PCC and NLCare Cell** to carry on business of insurance in four classes

Banking

Financial institutions

Financial Institution licence issued to **Moneybase Limited**.

Company Service Provider

Registration certificate issued to **Fiduscorp Limited**.

Registration of certificate issued to **Hamels (Malta) Limited**.

Investment Services

Category 1B licence issued to **Goldberg Pan-European Wealth Consulting Ltd**.

Category 1B licence issued to **Fund Scouting & Advisory Ltd**.

Surrender of Licences

Collective Investment Schemes

Professional Investor Funds

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

Surrender of licence issued to **Audentia Capital SICAV plc** (“the Scheme”) in respect of seven sub-funds.

Surrender of licence issued to **Ciel European SICAV plc** (“the Scheme”).

Surrender of licence issued to **Selenium SICAV plc** (“the Scheme”) in respect of three sub-funds.

Company Service Providers

Cancellation of registration issued to **CSU Corporate Services Ltd** (“the Company”) Recognised Fund Administrators

Investment Services

Surrender of investment services licence issued to **Temporis Investment Management Limited**.

Surrender of Category 2 licence issued to **NordHedge Asset Management Limited**.

Recognised Fund Administrators

Surrender of licence issued to Castlegate Fund Services Ltd (“the Company”).

Extended and Revised Licences

Insurance

Insurance Intermediaries/ Agents List

Extension of authorisation issued to **PSA Insurance Solutions Limited** to carry on business of insurance in two classes of the general business.

Insurance Undertaking

Extension of authorisation issued to **PSA Insurance Limited** to carry on business of insurance in two classes of the general business.

Extension of authorisation issued to **ArgoGlobal SE** to carry on business of insurance and reinsurance in six classes of the general business.

Investment Services

Revision of licence issued to Crystal Finance Investments Limited (“the Company”) to reflect the conversion of the Company’s Category 3 Investment Service Licenceto a Category 1b Licenceto provide Reception and Transmission of Orders to Retail Clients.

Revision of licence issued to Dolfin Asset Services Limited (“the Company”) to reflect the conversion of the Company’s Category 2 and 4A Investment Service Licenceto a Category 3 and 4A Licenceto.



MFSA

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