

6 May 2019

## Revision to Rulebooks Applicable to Collective Investment Schemes

The Authority has recently revised a number of sections in the Rulebooks applicable to Collective Investment Schemes as set out below:

- a) Investment Services Rules for Retail Collective Investment Schemes
  - Part BII - Malta based UCITS Collective Investment Schemes;
  - Appendix VII - Supplementary Licence Conditions Applicable to Schemes set up as Money Market Funds; and
  - Glossary to the Investment Services Rules for Retail Collective Investment Schemes
- b) Investment Services Rules for Alternative Investment Funds
  - Part B - Standard Licence Conditions applicable to Alternative Investment Funds;
  - Appendix I - Supplementary Licence Conditions applicable to Alternative Investment Funds adopting different structures; and
  - Glossary to the Investment Services Rules for Alternative Investment Funds
- c) Investment Services Rules for Professional Investor Funds
  - Part BI – Professional Investor Funds targeting Experienced Investors;
  - Part BII - Professional Investor Funds targeting Qualifying Investors;
  - Part BIII - Professional Investor Funds targeting Extraordinary Investors; and
  - Appendix I - Supplementary Licence Conditions

The Authority is publishing an updated version of the above-mentioned Rulebooks, and applicable appendices, which is available on the Authority's website and can be accessed at: <https://www.mfsa.com.mt/firms/regulation/securities-and-market/collective-investment-schemes/>

The following are the main updates to the Rulebooks.

- (i) Update emanating from the **Money Market Funds (“MMFs”)** Regulation

The changes carried out to the Rulebooks relate, *inter alia*, to rules applicable to Collective Investment Schemes authorised as MMFs. Previously, MMFs were subject to provisions of specific sections of UCITS or AIF Rules and/or their relevant appendices which transposed the *previously applicable* [CESR's Guidelines on a common definition of European money market funds](#).

Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (“the MMF Regulation”) was implemented through Legal Notice 25 of 2019 titled [Investment Services Act \(Money Market Funds\) Regulation, 2019](#). MMFs remain subject to the provisions of UCITS or AIF Rulebooks insofar as they do have not been superseded by the provisions of the MMF Regulation. By way of example, MMFs are subject to the following sections: Permissible Investment Instruments and Investment Objectives, Policies and Restrictions, under the MMF Regulation which sections substitute the respective and parallel provisions applicable to UCITS. Notably, Professional Investor Funds are no longer allowed to be licensed as MMFs.

(ii) Update on cross sub-fund investments

Cross Sub-Fund Investments take place when a Sub-Fund forming part of an umbrella scheme invests in another (target) Sub-Fund of the same scheme. In order to ensure consistency across various rulebooks, the applicable provisions relating to the Cross Sub-Fund Investments have been amended and/or introduced in a number of Rulebooks<sup>1</sup>.

(iii) Other changes

- Cross-Selling practices

New provisions were included into the Rulebooks reflecting the requirements of [ESMA Guidelines on cross-selling practices](#). These requirements apply in cases where a Scheme offers an investment service together with another service or product, as part of a package or as a condition for the same agreement or package. These requirements shall apply only to Schemes targeting retail investors, and whether the cross-selling is undertaken directly by the staff of the Scheme or through other distribution channels.

- Credit rating of counterparties

Additional provisions have been included on the assessment of counterparties and prohibiting Collective Investment Schemes and Fund Managers from relying solely and mechanically on the credit rating.

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<sup>1</sup> See: Circular dated 14 February 2019 on [Cross Sub-Fund Investments in Retail Collective Investment Schemes](#)

The main amendments are as follows:

Investment Services Rules for Retail Collective Investment Schemes

Part BII: Malta based UCITS Collective Investment Schemes	Money Market Funds	SLC 1.2 (viii)	Insertion of a new Section (25) of this Part BII covering Schemes set-up as MMFs in lieu of Appendix VII to these Rules.
		Section 4 and Section 5	Introductory note clarifying the applicability of the Sections to the MMFs as opposed to other UCITS has been inserted.
		Section 25	Supplementary Licence Conditions applicable to Schemes set up as Money Market Funds has been inserted.
		Appendix VII to Part B	Deleted.
	Cross sub-fund investments	Section 26	Insertion of a new Section (26) of this Part covering Schemes with Cross Sub-Fund Investments.
	Cross-selling practices	Section 24	Insertion of a new Section (24) covering Schemes undertaking cross-selling practices.
		Glossary to the Investment Services Rules for Retail Collective Investment Schemes	New definitions have been inserted:  "Bundled package" "Component product" "Cross-selling practice" "Tied package"
	Other	SLC 5.23 (iii) and SLC 21.5	Additional provisions relating to evaluation of counterparties have been inserted.

Investment Services Rules for Alternative Investment Funds

Part B: Alternative Investment Funds	Money Market Funds	Clause [III]	Insertion of a new Clause [III] to the Applicability of Part B.
		Appendix I to Part B	Supplementary conditions applicable to AIFs set up as MMFs have been deleted [previous Section 9].
	Supplementary Licence Conditions applicable to AIFs Sold to different types of investors	SLC 4.60 (Experienced Investors)	Technical amendments have been made to the existing SLCs on cross sub-fund investments.
		SLC 4.65 (Qualifying Investors)	
		SLC 4.70 (Extraordinary Investors)	
		SLC 4.74 (Professional Investors)	
	Supplementary Licence Conditions applicable to AIFs Sold Exclusively to Retail Investors	SLC 4.39	Conditions on Cross sub-fund investment applicable to AIFs Sold Exclusively to Retail Investors have been inserted.
		SLCs 4.41A	Insertion of a new SLC (4.41A) covering AIFs Sold Exclusively to Retail Investors which undertake Cross-selling practices.
		Glossary to the Investment Services Rules for Alternative Investment Funds	New definitions have been inserted: "Bundled package" "Component product" "Cross-selling practice" "Tied package"
		Appendix I to Part B	Insertion of a new Section (9) of the Appendix I covering AIFs Sold Exclusively to Retail Investors which undertake Cross-selling practices.
Other	SLC 4.33	Additional provisions relating to evaluation of counterparties have been inserted.	

Investment Services Rules for Professional Investor Funds

Part BI: Professional Investor Funds	Cross sub- fund investment	SLC 1.105	Insertion of a new SLC (1.105) covering Schemes with Cross Sub-Fund Investments.
Part BII: Professional Investor Funds		SLC 1.43	Technical amendments have been made to the existing SLC.
Part BIII: Professional Investor Funds		SLC 1.42	Technical amendments have been made to the existing SLC.
Appendix I to Part B	Money Market Funds	(former) Section 6	Deleted.

Contacts

Any queries or requests for clarifications on the contents of this Circular should be addressed to the Securities and Market Supervision on [funds@mfsa.com.mt](mailto:funds@mfsa.com.mt).