

# MFSA

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## MALTA FINANCIAL SERVICES AUTHORITY

### **Circular addressed to Credit Institutions operating in Malta**

#### ***MYSTERY SHOPPING EXERCISE ON THE OPENING OF BANK ACCOUNTS***

##### **Background**

The MFSA has recently carried out a mystery shopping exercise (**‘the exercise’**), through the Conduct Supervisory Unit (**‘CSU’**), to a number of branches (**‘the branches’**) of the main domestic credit institutions (licensed under the Banking Act, Cap. 371).

The MFSA considers the use of mystery shopping a useful tool for carrying out its supervisory functions. This exercise was conducted to gather first-hand evidence of what a person visiting a branch with a view to open a bank account might experience.

The exercise was conducted by MFSA Officials taking on the role of a customer (**‘the customer’**), seeking a service from a credit institution, at branches of credit institutions in various localities around Malta and Gozo. The exercise involved: (1) the evaluation of the suitability of the product offered by the credit institutions, following a request made by the customer (Maltese or foreign) to open a bank account; (2) an assessment of the adequacy of information provided (written and verbal) to the customer and disclosures made by the branch representatives; (3) an assessment of how local credit institutions have implemented the requirements of a number of conduct related provisions arising out of the [Payment Accounts Directive](#) and the [Payment Services Directive](#).

Further to the findings of the exercise, the MFSA sought clarifications by way of correspondence with the respective credit institutions highlighting the main shortcomings identified and the remedial action expected to be taken.

The purpose of this circular is to inform the industry about the common findings of the exercise in order to encourage credit institutions to take corrective action in order to improve their level of compliance with the applicable regulatory standards. In this regard, credit institutions are encouraged to consider carefully the key findings set out below and undertake an assessment of their current practices and procedures *vis a vis* these findings, making sure that any remedial action is taken in a timely manner.

### **Findings and Expected Outcomes**

#### **[1] Information provided to the customer to open a bank account**

##### **Findings:**

Upon request to open a bank account, the credit institution's branch staff encountered frequently provided the customer (either verbally or handwritten) with a list of documents required to be submitted for a credit institution to be in a position to open an account. The customer was never provided with information on the characteristics of the various bank accounts being offered by the respective credit institution and/or for which the customer could be eligible. The aforementioned information was only received verbally upon insistence from the customer. It was only in a few instances that a leaflet was provided. In those cases where the customer was a foreigner, it was noted that for some of the credit institutions, the customer was immediately directed to a specific branch within the credit institution's branch network for the provision of such information.

During the exercise, the customer specifically requested information in relation to the opening of a current account and, in many cases, the credit institution's branch staff did not meet the customer's request. Instead, the customer was offered other types of accounts (e.g. saving or term deposit accounts).

##### **Expected Outcome:**

**Credit institutions should ensure that branch staff members, whose role includes *inter alia* providing the customer with sufficient and correct information to allow the customer to take an informed decision prior to the purchase of a banking product:**

- **have sufficient knowledge about the bank accounts available at and offered by the respective credit institution;**
- **have access to correct and updated information relating to the above;**
- **be in a position to explain the characteristics and conditions of each type of account to the customer, including the charges which the customer will have to pay, the features of the account and any other relevant information. This information must be provided in a direct and immediate manner, even in those cases where the customer does not request it.**

**Credit institutions are to ensure that they not only provide the customer with detailed information about the application process for the opening of a bank account but should also provide customers with detailed information about the different bank accounts offered by the credit institution together with their respective characteristics.**

**[2] Provision of written information**Findings:

In many cases, the customer had to insist more than once to be provided with any form of written information on the different bank accounts available and offered by the respective credit institution. The only sort of written information provided was a leaflet and this in a few of cases. However in several situations, even after requesting to be provided with written information, the customer was not provided with the same and was advised to search for the information on the credit institution's website. In one particular instance, which raises concern, upon request of written information the customer was directed to search for this on Google.

On the contrary, it was noted that one of the credit institutions provides stationary tablets from which the customer could access and download information about the credit institutions products. The existence of such tablets is an initiative which is a positive step.

Expected Outcome:

**In terms of Article 51(1) of the Payment Services Directive the customer must be provided, in good time before being bound by any framework contract or offer, on paper or on another durable medium, with the information and conditions specified under Article 52 of the same Directive.**

**Credit institutions are to ensure that they take the necessary steps to comply with the abovementioned requirements. In this respect, credit institutions are required to provide, each and every customer who visits their branches requesting information on bank accounts (or any other product), in good time, the relevant information being specified in terms of Article 52 of the Payment Service Directive, free of charge. Moreover, such information as well as information about the application process for the opening of a bank account, is to be made available online on the website of the credit institutions. The latter are required to keep such information updated at all times.**

**[3] Knowledge of the branch representatives**Findings:

In several branches, the branch representatives responsible for the distribution of the credit institution's products exhibited limited knowledge when replying to the customer's request and/or any questions posed by the same. There were instances where branch staff had difficulties when explaining the following:

- The list of documents required to be submitted for the credit institution to be in a position to open a bank account. This appeared to be inconsistent across the branches of the same credit institution such that a different list was requested by different branches of the same credit institution;

- The difference between a ‘Current Account’ and a ‘Savings Account’ and also between the aforementioned accounts and a payment account with basic features, as required in terms of the Credit Institutions and Financial Institutions (Payment Accounts) Regulations ([‘Legal Notice 411 of 2016’](#)) which transposes [Directive 2014/92/EU](#). There were instances where current accounts were indicated to be identical to a savings account;
- The operations and/or products included in the accounts (e.g. transfers, credit cards or debit cards);
- What is a payment account with basic features, who is eligible to apply for it and its characteristics. In many of the branches, the customer was informed that the aforementioned account is equivalent to a savings account. For further details please refer to point [7] of this circular;
- What is a SEPA transfer and the equality of costs in terms of internal and SEPA operations. For example, the customer was informed that a transfer of funds to other country through SEPA would be more expensive than the same transfer of funds in the internal market, which should not be the case.

**Expected Outcome:**

**Guideline 7 of the European Banking Authority ‘[Product Oversight and Governance Guidelines](#)’ for manufactures and distributors of retail banking products, namely ‘Distribution Channels’, establishes that “...*the manufacturer should select distributors that have the appropriate knowledge, expertise and capability correctly to place each product in the market and to provide appropriate information explaining the characteristics and risks of the product to the consumers.*”**

**In terms of the above Guidelines, a distributor is defined as “*a person who offers and/or sells the product to consumers; this includes business units of manufacturers that are not involved in the designing the product but are responsible for bringing the product to the market*”.**

**Therefore, any staff working in the branches and providing any kind of information to customers is considered to be a distributor for the purposes of the abovementioned guidelines. Accordingly, credit institutions are required to:**

- **provide enough and adequate training to all their staff having any contact with customers. This training must be provided on a regular basis and every time that there are any new developments, for instance, new legislation entering into force. Moreover, a record of the employees that completed such training and when must be kept;**

- **ensure that the IT systems in the branches are adequately updated to provide all the necessary information and documentation to the branch staff. This can always be used as a support to help the branch staff in providing proper and correct information to customers and/or to clarify any existing doubts.**

#### [4] **Inconsistency of information provided**

##### Findings:

It was noted that, inconsistent information was provided to the same customer by the branches of the same credit institution. In some cases, the information provided varied, when an identical request was made to different staff members in the same branch.

More specifically, inconsistent information was provided to the customer *inter alia* in relation to the minimum amount required to be deposited for the credit institution to open the same bank account, the allowed operations linked to an account (e.g. transfers of funds or the granting of debit cards) and the period of time which needs to elapse before the customer is provided with certain products linked to an account (e.g. debit cards). Furthermore, the verbal information received by the customer during the exercise was also found to be inconsistent with the credit institution's internal procedures.

Additionally, it was noted that when the customer exhibited low knowledge of banking services and products, the information provided on the standard bank accounts available was limited and insufficient. Only in those cases where the customer exhibited an element of knowledge about banking services and products and enquired further on the same, was information forthcoming from the branch staff.

##### Expected Outcome:

**The MFSA emphasises that the same product must be presented to all the customers in the same way, without any discrimination or differentiation. In addition, credit institutions are required to adopt appropriate measures in order to ensure consistency between the information provided by the branches to the customer and their internal procedures.**

#### [5] **Different treatment among customers**

##### Findings:

Throughout the exercise it appeared evident that a different treatment is adopted by credit institutions in respect of foreign customers, notably so for non-EU members resident in Malta. Indeed, in several instances staff in the branch of the credit institution, at times even in the same branch, presented the same product in a different way or did not present the product at all, when faced with a foreign customer.

**Expected Outcome:**

**In this regard, Regulation 17(1) of Legal Notice 411 of 2016, provides that:**

*“A credit institution shall not discriminate against customers legally resident in Malta or in another Member State by reason of their nationality or place of residence or by reason of any other ground referred to in Article 21 of the Charter, the Equality for Men and Women Act and in other provisions contained in any other Maltese law as may be in force and amended from time to time, when those customers apply for, or access, a payment account.”.*

**In the light of the above, whilst it is understandable that the list of documents required to be submitted for a credit institution to be in a position to open a bank account may differ for a foreign customer in the light of anti-money laundering obligations arising from the applicable law, the product offered to customers with similar profiles, should be the same regardless of the nationality of the customer.**

**[6] Tariff of Charges****Findings:**

In the majority of the branches, no written information on the fees and charges applied by the credit institutions on their products and/or customer's transactions was found. Additionally, when the customer enquired for such information and requested the branch staff to be provided with a copy of the tariff of charges, the customer was advised that this was not available and was directed to search for the same on the respective credit institution's website. It appears that the branch representatives did not have the tariff of charges readily available, either in printed or digital format, at branch level.

**Expected Outcome:**

**The tariff of charges is a very important tool for the customer to take an informed decision. The tariff of charges should be made readily available by credit institutions in all the branches, allowing the customer to verify it at any moment. Credit institutions are to ensure that an updated copy of such document is always available in all the branches in a visible place. This information is to be kept updated at all times. Moreover the customer should be informed of all the costs which may be incurred when buying a banking product and the credit institution is required to make the tariff of charges available to the customer, if so requested, on a durable medium, free of charge.**

**In addition to the above, the tariff of charges should also be made available on the credit institution's website. Credit institutions are to ensure that this is updated on an ongoing basis and every time that there are any amendments to the same.**

### Other Comments

#### **Access to a payment account with basic features**

The MFSA takes the opportunity to remind credit institutions having a branch network in Malta of five or more branches of their obligation to offer a payment account with basic features. Please note that such an account is not equivalent to the current or savings account.

According to Legal Notice 411 of 2016, any person legally resident in Malta or in another Member State has a **right** to open a payment account with basic features with credit institutions established in Malta which have at least a branch network consisting of five branches. The term 'legally resident in Malta or in another Member State' is defined in Regulation 2(1) of the same Legal Notice as "*a natural person who has the right to reside in Malta or in another Member State by virtue of EU or national law, including consumers with no fixed address and persons seeking asylum under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, the Protocol thereto of 31 January 1967 and other relevant international treaties*".

In terms of this Legal Notice, credit institutions are not to:

[a] discriminate between customers by reason of their nationality or place of residence or by reason of any other ground referred to in Article 21 of the Charter, the Equality for Men and Women Act and in other provisions contained in any other Maltese law as may be in force and amended from time to time, when those customers apply for, or access, a payment account;

[b] introduce or implement policies or procedures which may directly or indirectly impose any unnecessary, difficult, or burdensome restrictions or processes to dissuade the consumer from exercising such rights as they arise under this regulation.

The Payment Accounts Directive itself further asserts that access to payment accounts with basic features should be ensured by Member States irrespective of the consumers' financial circumstances, such as their employment status, level of income, credit history or personal bankruptcy.

For a person to be eligible to open a payment account with basic features under these regulations such person needs to be in possession of a valid identification document issued either by Maltese authorities or authorities in other Member States. Persons holding temporary identification documents are still eligible to open a payment account with basic features.

Notwithstanding the above, the Legal Notice makes it clear under Regulation 22 that credit institutions are still bound with national and European anti-money laundering legislation and can refuse to open a payment account with basic features for a consumer where to do so would

be in breach of said legislation. However, no person shall be refused the right to access a payment account with basic features for the mere reason that the due diligence to be conducted by credit institutions would be stricter and, therefore, more costly. Persons with no fixed address and/or no permanent identification documents, persons who have been residents in correctional facilities and/or rehabilitation centres, who may require stricter due diligence to be carried out by credit institutions, cannot a priori be refused the possibility to open a payment account with basic features.

Furthermore credit institutions that offer payment accounts with basic features may refuse an application for such an account where a consumer already holds a payment account with any credit institution located in Malta, and when that account has at least certain features, save where a consumer declares that the credit institution with which the payment account is held has given notice in writing that the payment account shall be closed.

Should an application for the opening of a payment account with basic features be refused, credit institutions are to inform the customer concerned together with reasons for such refusal, unless doing so would pose threats to national security. Credit institutions are also to inform persons whose application was refused about their rights and the procedures in place to lodge a complaint.

### **Conclusion**

We trust that the contents of this circular will help credit institutions identify any shortcomings and to take the appropriate remedial action.

Any queries regarding the subject matter of this circular are to be directed to the undersigned or Dr Sarah Pulis ([spulis@mfsa.com.mt](mailto:spulis@mfsa.com.mt)) or Ms Sephora Scerri ([sscerry@mfsa.com.mt](mailto:sscerri@mfsa.com.mt)) or Ms Vera Azevedo ([vazevedo@mfsa.com.mt](mailto:vazevedo@mfsa.com.mt)).

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