

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular addressed to Non-UCITS Fund Managers regarding the proposed changes to the applicable financial resources requirement

6th April, 2010

This circular has the purpose of providing the investment services industry with an outline of the proposed changes to the current financial resources requirement applicable to Non-UCITS Fund Managers in terms of the Investment Services Rules for Investment Services Providers. The proposed changes will be incorporated as a new section 1.2 B.1 of Appendix I to Part B of the Investment Services Rules for Investment Services Providers.

This circular also has the purpose of serving as a consultation document on the proposed new rules as explained below. The MFSA invites comments by not later than three weeks from the date of issue of this consultation document. Interested parties are to send their comments in writing addressed to the Director – Securities and Markets Supervision Unit (e-mail: su@mfsa.com.mt).

The following is an explanation of the proposed amendments to the financial resources requirement applicable to Non-UCITS Fund Managers.

Currently, investment services licence holders which act as fund managers of Non-UCITS schemes and which have a Category 2 Investment Services Licence, are subject to the capital resources requirement applicable to this category of licence holders, as calculated in terms of Appendix 1 to Part B of the Investment Services Rules for Investment Services Providers.

The MFSA is proposing that the capital resources requirement of investment services licence holders which are **solely** involved in the management of Non-UCITS schemes, shall be the higher of (i) and (ii) below:

- (i) The sum of the following which shall not exceed €10 million:
 - a. an initial capital of €125,000; and
 - b. an additional amount of own funds equivalent to 0.02% of the amount by which the value of the portfolios under management exceed €250 million. The portfolios under management of the Non-UCITS Fund Manager shall comprise the portfolios of the Non-UCITS schemes including those in respect of which the Non-UCITS Fund Manager has delegated one or more functions, but excluding the portfolios which the Non-UCITS Fund Manager is managing under delegation. The Non-UCITS Fund Manager shall be considered as managing portfolios under delegation in those cases

where the Non-UCITS Fund Manager does not have a direct relationship with the scheme due to its role as a sub-manager of the designated Non-UCITS Fund Manager.

Provided that the Non-UCITS Fund Manager may be exempted from providing up to 50% of the additional amount of own funds referred to in (b) above, if it benefits from a guarantee of the same amount given by a credit institution or an insurance undertaking. The credit institution or the insurance undertaking must have its registered office in a Member State or in a third country that is subject to the prudential rules that are considered by the MFSA as equivalent to those laid down in Community law.

Non-UCITS Fund Managers wishing to avail themselves of this exemption should contact the MFSA for guidance in this regard.

- (ii) the fixed overheads requirement which is calculated in accordance with Section 4.3 of Appendix 1 to Part B of the Investment Services Rules for Investment Services Providers.

Provided that where the Non-UCITS Fund Manager is authorised to provide other investment services in terms of the Investment Services Act, in addition to fund management of Non-UCITS schemes, the capital resources requirement applicable to the Non-UCITS Fund Manager shall be equivalent to the capital resources requirement which applies in terms of section 1.2 A of Appendix 1 to Part B of the Investment Services Rules for Investment Services Providers.

Contacts

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