

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Investment Services Rules for Professional Investor Funds

1st December, 2009

1.0 Background

Reference is made to MFSA's circulars dated 21st May, 2009 and 10th September, 2009 concerning proposed amendments to the Investment Services Rules for Professional Investor Funds issued by the MFSA in terms of article 6(2)(b) of the Investment Services Act, 1994.

2.0 Publication of Revised Rules and Applicability thereof

The MFSA is today publishing the revised Investment Services Rules for Professional Investor Funds (hereinafter referred to as "the Rules"). Whilst the revised Rules are **effective immediately**, it is to be noted that the revised Standard Licence Conditions for PIFs targeting Experienced Investors under the section 'Investment Objectives, Policies and Restrictions' of Part B.I of the Rules, will only be applicable to schemes (including sub-funds) whose **application for a Licence** is submitted to the Authority from **1st January, 2010** onwards. Experienced Investor PIFs which are currently licensed or whose **application for Licence** was/ is submitted to the Authority before **31st December, 2009**, will remain subject to the same conditions which have been retained in Part B.I. as applicable for such schemes, *irrespective of the date of their licence*. The Authority has considered it appropriate to adopt this revised approach rather than linking the applicability of the new investment restrictions to the scheme's licence date as was originally the intention and as was previously communicated, in order to avoid undue time pressures on promoters and the Authority for the licensing of pending applications before the year end.

3.0 Amendments to the Rules

The following are the main amendments which have been effected:

- 3.1 Slight amendment to the definition of 'Experienced Investor' to clarify that a person qualifying as 'Professional Client' in terms of MiFID automatically qualifies as an 'Experienced Investor'

- 3.2 Introduction of the new € 10,000 minimum investment threshold for PIFs targeting Experienced Investors which are subject to the new investment restrictions set out in Part B.I of the Rules
- 3.3 Introduction of new Standard Licence Conditions under the section ‘Investment Objectives, Policies and Restrictions’ in Part B.I of the Rules which will be applicable to Experienced Investor PIFs submitting an application for licensing to the Authority on or after 1st January, 2010

Other minor updates have been effected to bring the Rules up to date (for example the references to the other Rule books have been updated).

4.0 Option for Experienced Investor PIFs

Experienced Investor PIFs currently licensed or whose application for a Licence to the Authority was/ is submitted before 1st January, 2010 may request the Authority to be subject to the new investment restrictions applicable to schemes whose application is received on or after 1st January, 2010, in which case they may lower their minimum investment threshold from € 15,000 to € 10,000. Such requests would need to be accompanied by a confirmation from the PIF's Custodian that the fund in question satisfies the new investment restrictions.

5.0 Contacts

Should you have any queries regarding the above please do not hesitate to contact:

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