

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Investment Services Rules for Recognised Persons

22nd July, 2008

1.0 Background

Reference is made to MFSA's Circular issued on the **4th June, 2008** by means of which interested parties were requested to send their comments by the **25th June** on the proposed Draft Investment Services Rules for Recognised Persons.

MFSA has evaluated the feedback received and is today publishing the Investment Services Rules for Recognised Persons (hereinafter "the Rules") which come into effect on the **23rd July, 2008**. As from this date, these Rules will replace the requirements for Recognised Persons currently included in the Investment Services Rules for Recognised Persons and Retail Collective Investment Schemes.

2.0 Investment Services Rules for Recognised Persons - Recognised Fund Administrators.

The Rules which apply to Recognised Fund Administrators are contained in Parts A.I and B.I of the Rules.

2.1 Part A.I – Recognised Fund Administrators

Part A.I to the Rules relates to the application process leading to the issue of a Recognition Certificate to a Fund Administrator in terms of Section 9A of the Investment Services Act, 1994 ("the Act").

Further to industry comments received, in Section 2 of Part A.I, entitled "*Fund Administration Services*", the service of 'transfer agency' has been included as a "core service" in relation to which a Recognition Certificate is required in terms of article 9A of the Act.

Section 3 of the draft rules published on the **4th June, 2008**, entitled "*Distinction from Licensable Services*" has been removed for the time being since MFSA would like to consider in more detail a number of issues raised by the industry in this regard. This area may be clarified in due course following further consultation with the industry.

2.2 Part B.I - On-Going Requirements for Recognised Fund Administrators.

Part B I of the Rules contain the ongoing requirements for Recognised Fund Administrators.

In addition to the five sections as described in Paragraph 2.0 of MFSA's circular of the **4th June**, a new **Section 4** entitled "*Outsourcing by Recognised Fund Administrators*" has been added with a view to set the regulatory requirements for Recognised Fund Administrators wishing to outsource certain functions to a third party. These rules have been modelled on the Standard Licence Conditions relating to outsourcing as applicable to Investment Services Licence Holders in terms of Section 4 of Part B of the Investment Services Rules for Investment Services Providers.

In addition, a new Rule 3.3 has been added in **Section 3 of Part B.I** to clarify that it is possible for a Recognised Fund Administrator to act as a delegate of another Recognised Fund Administrator.

2.3 Transitional Arrangements for Recognised Fund Administrators

In terms of Rules 2.6 and 2.10 of the Rules, Recognised Fund Administrators are required to appoint a Compliance Officer and a Money Laundering Reporting Officer.¹

Further to the above, Recognised Fund Administrators are requested to submit the details (including Personal Questionnaire)² of their proposed Compliance Officer and Money Laundering Reporting Officer to MFSA for its approval, by not later than the **1st September, 2008**.

3.0 Investment Services Rules for Recognised Persons - Recognised Private Collective Investment Schemes

Part A.II deals with the application process leading to the issue of a Recognition Certificate to a Private Collective Investment Scheme in terms of the Investment Services Act (Recognition of Private Collective Investment Schemes) Regulations, 2002. It lists the documents to be submitted to MFSA in application for such a Recognition Certificate and indicates the checks which MFSA carries out in this regard.

Part B II relates to the ongoing requirements for Recognised Private Collective Investment Schemes and contains four sections as described in paragraph 3.0 of MFSA's circular of the **4th June, 2008**.

¹ The Requirement for Recognised Fund Administrators to appoint a Money Laundering Reporting Officer emanates from the upcoming new Prevention of Money Laundering Regulations which are expected to be issued very shortly to transpose the European Union's 3rd Anti Money Laundering Directive.

² Submission of the PQ form is not required if the individual concerned has submitted a PQ form within the last three years, in which case, MFSA would require a confirmation from such individual as to whether there were any material changes to the details included in the previously submitted PQ.

4.0 Issue of Revised Recognition Certificates.

The Authority will be issuing revised Recognition Certificates to currently recognised persons to refer to the new Rules.

5.0 Contacts

The new Investment Services Rules for Recognised Persons may shortly be downloaded from the Authority's website located at www.mfsa.com.mt. Any queries regarding the above may be addressed to:

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