



MALTA FINANCIAL SERVICES AUTHORITY

Investment Services Rules for Retail Collective Investment Schemes Part B II – Malta based UCITS Collective Investment Schemes

New Section relating to Use of Repurchase/Reverse Repurchase and Stock Borrowing/Stock Lending Agreements.

8th April 2008

The MFSA invites comments by not later than 30th April 2008, on the proposed amendments to Part B II of the Investment Services Rules for Retail Collective Investment Schemes. Interested parties are to send their comments in writing addressed to the Director – Securities Unit, MFSA.

1.0 Background

MFSA is proposing an amendment to Part B II of the Investment Services Rules for Retail Collective Investment Schemes. This part contains the standard licence conditions applicable to Malta based UCITS collective investment schemes.

The amendment proposed is the addition of a new Section (Section 19) to be entitled Use of Repurchase/ Reverse Repurchase and Stock Borrowing/ Stock Lending Agreements.

2.0 Proposed New Rules

The proposed new section in Part B II would contain rules which would need to be observed by Maltese based UCITS entering into Repurchase/Reverse Repurchase and Stock Borrowing/Stock Lending Agreements as part of their investment strategy.

These rules are being proposed to provide further clarity on the conditions subject to which Maltese based UCITS may engage in such transactions.

The proposed new rules are attached as Appendix 1 to this circular.

3.0 Contacts

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

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Appendix 1

DRAFT NEW SECTION 19 TO PART B II of IS Rules for RETAIL CISs

19 Use of Repurchase/ Reverse Repurchase and Stock borrowing/ Stock lending Agreements

- 19.1 A Scheme may only enter into repurchase/ reverse repurchase and stock lending/ stock borrowing agreements:
- i. when in the opinion of the Scheme or its Manager, the entering into such agreements by the Scheme is appropriate and in the interest of investors in the Scheme, and entails an acceptable level of risk; and
 - ii. in accordance with good market practice, which involves the provision of adequate collateral which complies with the requirements laid in SLC 5.15.
- 19.2 Collateral is considered adequate if it satisfies the conditions outlined in SLC 5.15. Invested cash collateral which is held at the credit risk of the Scheme, other than cash collateral invested in government or other public securities or Qualifying Money Market Funds, shall be diversified so that no more than 20 per cent of the collateral is invested in the securities of, or placed on deposit with, one institution. Invested cash collateral may not be placed on deposit with, or invested in securities issued by the counterparty or a related entity.
- 19.3 The Scheme may enter into stock lending/ stock borrowing programmes organized by generally recognized Central Securities Depositories Systems provided that the programme is subject to a guarantee from the system operator.
- 19.4 The counterparty to a repurchase/ reverse repurchase or stock lending/ stock borrowing agreement must have a minimum credit rating of A (Standard & Poor's) or A2 (Moody's) or such other rating, acceptable to MFSA, by another internationally renowned credit rating agency. Provided that an unrated counterparty will be acceptable where the Scheme is indemnified against losses suffered as a result of a failure of the counterparty, by an entity which has and maintains a credit rating as provided above.
- 19.5 The Scheme shall have the right to terminate the stocklending agreement at any time and demand the return of any or all of the securities loaned. The agreement must provide that, once notice is given, the borrower is obliged to redeliver the securities within 5 business days or other period as normal market practice dictates.
- 19.6 Repurchase/ reverse repurchase or stock lending/ stock borrowing agreements do not constitute borrowing or lending for the purposes of the Scheme's borrowing or lending restrictions.