

## **Circular addressed to MiFID Firms and UCITS/AIFMD Firms conducting MiFID services and activities**

On 6 July 2016, the EBA published a [call for advice](#), dated 13 June 2016, that it had received from the European Commission regarding the prudential requirements applicable to investment firms under the Capital Requirements Regulation (CRR) (Regulation 575/2013) and the CRD IV Directive (CRD IV) (2016/36/EU).

The EBA had already provided advice on this matter to the Commission in December 2015<sup>1</sup>; it broadly concluded that the current prudential regime for investment purposes is not adequate. Reference should be made to the [MFSA circular issued on 28<sup>th</sup> December 2015](#).

The Commission is seeking further technical advice from the EBA on the details of the high level recommendations set out in the December 2015 advice. It has asked the EBA to provide advice on the following:

- the criteria and thresholds for each of the three proposed classes of investment firm (Class 1 systemic, 'bank-like' firms which should remain within the scope of the current CRR; Class 2 a middle category for the majority of firms that do not pose systemic risk but do pose risks and should be subject to a less-complex prudential regime calibrated to address specific risks; and Class 3 firms which are small firms which are not interconnected and which should be subject to a very simple regime to cater for wind-down, if appropriate);
- the design and calibration of all relevant aspects of a new prudential regime for the three proposed classes of investment firm;
- the application of the CRD IV remuneration requirements to the different proposed classes of investment firm, and, whether the proposed new classes would affect the applicability of the CRD IV corporate governance rules; and
- any other issues or inconsistencies the EU competent authorities have identified in implementing the rules relating to investment firms.

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<sup>1</sup> EBA issues recommendations for sound prudential regime for investment firms: 14 December 2015: <https://www.eba.europa.eu/-/eba-issues-recommendations-for-sound-prudential-regime-for-investment-firms>

This advice will be prepared by the EBA in consultation with ESMA. The deadline for preparing the advice on the analysis relating to class one investment firms is 30 September 2016. Moreover, the EBA must then prepare its final report on the substantive content and calibration of the proposed regimes for the different classes of investment firms to the Commission by 30 June 2017.

Moreover, on 15 July the EBA launched a data collection exercise aimed at supporting the response to the Commission's Call for Advice of 13 June 2016 on a new prudential framework for MiFID investment firms, which should be less complex, more risk sensitive and more proportionate than the current regime. The EBA published templates and instructions regarding this data collection exercise, as outlined below.

This data collection exercise supports the calibration of the new prudential regime for investment firms, following the second European Commission Call for Advice<sup>2</sup> to consider and provide technical advice on the first two recommendations of the 2015 report<sup>3</sup>.

The data collection exercise addresses MiFID investment firms, including those that are expected to fall under the scope of MiFID II, and UCITS/AIFMD firms conducting MiFID activities or services. It excludes commodity dealers, for which a tailored exercise will be launched later this year.

The data collection provides two different sets of data templates: one specific for MiFID investment firms and another designed for UCITS/AIFMD firms conducting MiFID activities or services. The website also provides specific 'Data Instructions' in order to guide the Licence Holder on the type of data required in order to complete the data template. These can be found on the EBA website via the following link: <https://www.eba.europa.eu/-/eba-launches-data-collection-to-support-the-new-prudential-framework-for-investment-firms>

#### **MiFID Firms Template and Data Instructions:**

- <https://www.eba.europa.eu/documents/10180/1522547/EBA+Data+Collection+MiFID+IFs.xlsx>
- <https://www.eba.europa.eu/documents/10180/1522547/EBA+Data+Instructions+MiFID+IFs.pdf>

#### **UCITS/AIFMD Firms conducting MiFID services and activities Template Data Instructions:**

- <https://www.eba.europa.eu/documents/10180/1522547/EBA+Data+Collection+UCITS+AIFMD.xlsx>
- <https://www.eba.europa.eu/documents/10180/1522547/EBA+Data+Instructions+UCITS+AIFMD.pdf>

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<sup>2</sup> <https://www.eba.europa.eu/about-us/missions-and-tasks/calls-for-advice>

<sup>3</sup> <http://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-20+Report+on+investment+firms.pdf>

As outlined in the instructions, the reference date for this data should be **31 December 2015**, unless otherwise stated. If deemed more appropriate, accounting year-end data may be reported.

The MFSA is requesting MiFID firms and UCITS/AIFMD firms conducting MiFID services and activities to complete the above templates and submit to the Authority by **23 September 2016 on the following email: [lhrecords@mfsa.com.mt](mailto:lhrecords@mfsa.com.mt)**. This date is being set ahead of the deadline for submissions of the information to the EBA in order to enable the MFSA to review the data prior to submission to the EBA.

### **Contacts**

Should you have any queries regarding the above, please do not hesitate to contact the Securities and Markets Supervision Unit, Tel: 2548 5231 or 2548 5298.

**Communications Unit  
Malta Financial Services Authority  
18 August 2016**