

FEEDBACK STATEMENT ISSUED FURTHER TO
INDUSTRY RESPONSES TO THE MFSA
CONSULTATION ON THE PROPOSED
REGULATION OF COLLECTIVE INVESTMENT
SCHEMES INVESTING IN VIRTUAL
CURRENCIES

MFSA REF: 06-2017

ISSUED: 22 JANUARY 2018

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

THIS PAGE INTENTIONALLY LEFT BLANK

CONTENTS

1	INTRODUCTION	1
2	FEEDBACK STATEMENT	2
2.1	GENERAL.....	2
2.2	APPLICABILITY	2
2.3	EXTENSION OF SCOPE.....	3
2.4	DEFINITIONS.....	4
2.5	LEGAL STRUCTURE OF THE COLLECTIVE INVESTMENT SCHEMES INVESTING IN VCS	6
2.6	INVESTOR BASE	7
2.7	COMPETENCE.....	8
2.8	QUALITY ASSESSMENT	10
2.9	DIVERSIFICATION	11
2.10	SAFEKEEPING AND CUSTODY	12
2.11	SERVICE PROVIDERS AND GOVERNING BODY.....	13
2.12	RISK MANAGEMENT	16
2.13	LIQUIDITY	16
2.14	VALUATION	17
2.15	LISTING	18
2.16	REPORTING.....	18
3	CONCLUDING REMARKS	19

THIS PAGE INTENTIONALLY LEFT BLANK

1 INTRODUCTION

On the 23 October 2017, the Malta Financial Services Authority (“MFSA” or “the Authority”) issued a [Consultation on the Proposed Regulation of Collective Investment Schemes investing in Virtual Currencies](#) (“Consultation Document”). The main proposals introduced within the regulatory framework aim at safeguarding the interest of investors and the integrity of the financial market in the context of virtual currencies. The consultation period for this proposed regulation closed on 17 November 2017.

2 FEEDBACK STATEMENT

This statement summarises the feedback the MFSA received on the Consultation Document and sets out the MFSA's response and position thereto.

2.1 General

2.1.1 Industry Comments

A number of respondents stated that having a separate rulebook applicable to Professional Investor Funds ("PIFs") investing in virtual currencies ("VCs") would potentially create confusion in the industry and would significantly overlap with the current rulebooks especially where PIFs investing in VCs also invest in other asset classes.

2.1.2 MFSA Position

The MFSA considered the ample feedback received and revisited this position so that the additional requirements pertaining to PIFs investing in VCs would be inserted as supplementary licence conditions applicable to such collective investment schemes and not as a standalone rulebook.

2.2 Applicability

2.2.1 Industry Comments

A number of respondents queried whether the proposed framework will be applicable only to collective investment schemes which invest solely in VCs or also to those with even a limited exposure to such investments. A respondent commented that materiality thresholds should be introduced to determine the applicability or not of the proposed framework or, alternatively, the adoption of a proportional regime for those schemes with very limited exposure to VCs.

Finally, one respondent noted that further clarity with reference to the term 'indirect' investment is required.

2.2.2 MFSA Position

The framework will be applicable to collective investment schemes investing in VCs, irrespective of their exposure to such investments. Even where only a limited percentage of a PIF's assets under management is invested in VCs, such PIF shall fall under the full scope of the regulatory framework and the respective requirements included therein.

The Authority has taken the position that the regulatory framework is applicable to those PIFs investing in VCs either directly or indirectly through trading companies/ special purpose vehicles. Any other type of indirect investment including *inter alia* investment in units of a collective investment scheme which itself invests in VCs, shall be understood as falling outside the scope of the regulatory framework. This notwithstanding, and pursuant to the [Discussion Paper on Initial Coin Offerings, Virtual Currencies and related Service Providers issued by the MFSA on 30 November 2017](#) (the "Discussion Paper"), investments in those units of collective investment schemes which have been created through an ICO shall be construed as 'direct' investments in VCs.

2.3 Extension of Scope

2.3.1 Industry Comments

A number of respondents suggested that PIFs investing in VCs should be allowed to convert to Alternative Investment Funds ("AIFs") whose assets under management exceed the prescribed thresholds under Article 3(2) of the Alternative Investment Fund Managers Directive ("AIFMD").

2.3.2 MFSA Position

Upon further consideration, the Authority is inclined to extend the scope to further encompass AIFs and Notified AIFs. However, the Authority intends to proceed with this determination subsequent to the receipt and review of the industry's feedback with respect to Question 11 included in the Discussion Paper, the consultation period of which closed on the 18th January 2018.

2.4 Definitions

2.4.1 Industry Comments

A number of respondents commented that the proposed definition of VCs is limited to cryptocurrencies, thus leaving the various types of tokens currently available out of scope, and should therefore be updated accordingly. Respondents further queried on whether VCs will be classified as financial instruments or otherwise.

One respondent suggested that the term ‘cryptocurrencies’ should be used instead of the term ‘VCs’ in view of the fact that the initials ‘VC’ are already in use within the funds industry denoting venture capital.

Two respondents argued that the definition of ‘Qualifying Investor’ used in the Consultation Document is the one used in the circular to the financial services industry on the consolidation of the Maltese fund frameworks dated 26 May 2016. In view of the fact that the said circular stated that the updated definition of ‘Qualifying Investor’ shall become applicable upon publication of the new rulebooks, the respondents proposed the simultaneous issuance of the new rulebooks for clarity purposes.

One respondent stated additional definitions should be inserted including *inter alia* Distributed Ledger Technology (“DLT”), blockchain, Initial Coin Offerings (“ICOs”), wallet service providers and mining.

Another respondent requested additional clarifications in relation to ICOs. More specifically, it should be clarified whether investing in ICOs would be tantamount to investing in VCs as well as whether a collective investment scheme undertaking an ICO would fall within the remit of the proposed framework.

Finally, one respondent proposed the classification of collective investment schemes investing in VCs into (i) ‘trading funds’, which term shall refer to those schemes trading in VCs on a speculative basis, being akin to commodity funds, and (ii) ‘infrastructure funds’, which term

shall refer to those schemes investing in the underlying technologies of VCs, thus rendering them *akin* to private equity funds.

2.4.2 MFSA Position

The Discussion Paper issued by the Authority updated the Consultation Document's definition of VCs in order to further encompass tokens offered through ICOs. Furthermore, in its Discussion Paper the Authority has proposed a Financial Instrument Test to determine under which circumstances a VC would be classified as a financial instrument, in accordance with the general principles of a policy statement issued by the European Securities and Market Authority ('ESMA')¹.

With regard to nomenclature, the Authority reiterates the Financial Action Task Force's definition of cryptocurrency as 'a math-based, decentralised convertible virtual currency that is protected by cryptography'. From the said definition it can be inferred that cryptocurrencies constitute a sub-category of VCs and therefore the respective term may not replace the one currently used. Moreover, where the respective initials are used, no significant hurdles are foreseen in differentiating between the two terms, especially in view of the different context in which they will be used. This notwithstanding, the Authority does not exclude future amendments to the terminology and definitions adopted in these Rules following the assessment of the feedback received in relation to the Discussion Paper and future consultations.

The Authority is cognisant of the fact that the proposed changes to the Maltese fund frameworks communicated to the industry during 2016 have not been published. That said, the updated definition of Qualifying Investor will be applicable to PIFs investing in VCs as one of the supplementary conditions applicable to these schemes until the proposed revisions to the fund rulebooks are published.

¹ ESMA, Statement: ESMA alerts firms involved in Initial Coin Offerings (ICOs) to the need to meet relevant regulatory requirements, [ESMA50-157-828](#) (November 2017).

Furthermore, the industry's attention is drawn to the Discussion Paper wherein additional definitions have been included. Any VC-related definition not being used in the respective investment rules (e.g. mining) should not be inserted into the PIF rulebook. Such definitions may be included elsewhere instead, including *inter alia* the proposed Virtual Currencies Act or as otherwise determined by the Authority.

With regards to collective investment schemes investing in and/or undertaking ICOs, reference should be made to the Discussion Paper. According to the Authority's proposal set forth in the said paper, the determination of a VC's classification as financial instrument or otherwise will be based on the proposed Financial Instrument Test. This test will enable a collective investment scheme to determine the nature of the VC/s it invests in and/or offered through an ICO undertaken by it.

Finally, a classification between 'trading' and 'infrastructure' funds is not required. Collective investment schemes trading in VCs on a speculative basis are captured under the regulatory framework. Collective investment schemes investing in the underlying technologies of VCs would fall under the traditional definition of private equity funds and therefore the creation of a new category *akin* to such funds would not be required.

2.5 Legal Structure of the collective investment schemes investing in VCs

2.5.1 Industry Comments

In the Consultation Paper, the proposed legal structures for PIFs making investments in VCs were limited to SICAV and INVCO structures, which are required to have a board of directors responsible for the overall conduct of business of the collective investment scheme.

The majority of the respondents argued that other legal vehicles currently available under the domestic legislation provide adequate safeguards against the risks associated with VCs. One respondent suggested that, in view of the potential difficulties for an investment manager to identify members satisfying the specific competence requirements to sit on the governing body, contractual funds should constitute a permissible legal vehicle for such schemes.

Another respondent further queried whether a PIF wishing to invest in VCs will only be allowed to be established as a standalone scheme or, alternatively, whether the cellular structures currently available under the traditional rulebook will also be applicable to such schemes.

2.5.2 MFSA Position

In view of the risk associated with the investment model of collective investment schemes investing in VCs, the Authority was of the view that the legal structures for PIFs making such investments should be limited to SICAV and INVCO structures, which are required to have a board of directors responsible for the overall conduct of business of the collective investment scheme. After careful consideration of the feedback received, the Authority established that limited partnerships and unit trust structures also provide the additional governance oversight safeguards that the regulatory framework aims to achieve. Therefore, the decision has been taken to extend the regime to limited partnerships and unit trusts.

Furthermore, the Authority wishes to clarify that cellular structures will also be available under the framework. Therefore, PIFs wishing to invest in VCs may, apart from standalone schemes, be additionally established as Incorporated Cell Companies (“ICCs”) or Incorporated Cells (“ICs”) of either a SICAV ICC or a Recognised Incorporated Cell Company (“RICC”).

2.6 Investor Base

2.6.1 Industry Comments

A number of respondents suggested that making the regime available only to Qualifying Investors will significantly restrict investments in VCs.

One respondent commented that excluding credit institutions, financial institutions, [re]insurance companies, including their subsidiaries or associated companies, as well as retirement pension schemes from dealing in VCs for their clients or their own account goes beyond the quoted opinions of the European Banking Authority.

2.6.2 MFSA Position

In view of the specific risks associated with VCs and their underlying technologies, the Authority has decided to maintain its position for the time being to make the proposed regime available only to Qualifying Investors.

Furthermore, the industry's attention is drawn to section 4.2.5 of the Discussion Paper wherein the Authority is considering whether credit and financial institutions should be allowed to deal in VCs, subject to the conditions stipulated therein, solely on behalf of their clients whereas [re]insurance companies and retirement pension schemes are still prohibited from dealing in VCs, either on own account or for their clients. The final determination on this matter will be reached following the receipt and review of the industry's feedback to the Discussion Paper.

2.7 Competence

2.7.1 Industry Comments

The majority of the respondents highlighted the importance of further guidance on the requirement for the service providers of a PIF investing in VCs to have sufficient knowledge and experience in the field of Information Technology ("IT"), VCs and their underlying technologies, including but not limited to the DLT. More specifically, and in view of the novelty of this emerging sector, the respondents requested the Authority to explain the criteria which will be applied by it in order to assess the fitness and appropriateness of these service providers in this regard, both during authorisation stage as well as on an ongoing basis thereafter. Furthermore, it was suggested that specific reference to knowledge and experience in the field of financial services is made.

A number of respondents further suggested that the aforementioned competence requirement should not be applicable to the governing body of a PIF investing in VCs in view of the fact that its role is to oversee the PIF's service providers, without necessarily having expertise in the particular field in which the PIF shall be investing. A number of respondents also commented that such requirement would be too onerous in such a niche area and should therefore be revisited.

With reference to the roles of Compliance Officer, Money Laundering Reporting Officer (“MLRO”) and the auditor of a PIF investing in VCs, one respondent questioned the requirement for them to have specific expertise in VCs arguing that their respective obligations are not correlated to the underlying assets of a scheme.

Two respondents noted that, whereas the aforementioned competence requirement would be relevant within the field of VCs and their underlying technologies, they could not establish its relevance within the IT context. They further proposed to restrict such requirement only to VCs and their underlying technologies.

2.7.2 MFSA Position

Whereas the Authority is aware that the emergence of VCs is relatively recent, it would like to bring to the industry’s attention that a number of courses and qualifications are already available worldwide. The MFSA would also like to clarify that during the assessment of a party’s competence, it intends to adopt a holistic approach rather than base such determination on a particular metric.

In view of the fact that a PIF investing in VCs would be licensed under the Investment Services Act (Chapter 370 Laws of Malta) and consequently operate in the financial services sector, the Authority holds that knowledge and experience in the financial services sector is inferred and therefore no explicit reference is required.

The Authority further denotes the fiduciary duties owed by the members of a collective investment scheme’s governing body towards its unitholders. Due to the nature of VCs and their underlying technologies, the governing body may not be in a position to discharge their statutory and contractual duties in a diligent manner should the competence requirement be removed. The MFSA expects that the governing body has a suitable mix of skillsets encompassing financial services, the field of VCs and their underlying technologies. This requirement also applies to the governing bodies of existing PIFs launching sub-funds investing in VCs.

Furthermore, with regards to the roles of Compliance Officer and MLRO of a PIF investing in VCs, the Authority is of the view that these functions need to be accustomed to the dealings of the business of the PIF. Therefore, Compliance Officers are expected to have an understanding of the field of VCs and their underlying technologies. MLROs are further expected to remain up-to-date with the various money laundering/ funding of terrorism typologies adopted within the DLT ecosystem.

The Authority is of the view that VCs and their underlying technologies disrupt the respective traditional landscapes of auditors. Whereas their obligations will largely remain the same, the manner in which this new asset class should be approached and addressed is fundamentally different. Therefore, auditors are expected to have the necessary knowledge and expertise to identify, review and form an opinion on the respective risks applicable to VCs and any relevant safeguards in place.

Interested applicants are required to attend a pre-application meeting with the Authority for initial feedback and guidance on the competence of the proposed parties forming the PIF's structure and set-up. Further guidance on the above matters may be issued by the MFSA in due course where deemed necessary.

2.8 Quality Assessment

2.8.1 Industry Comments

Respondents required further clarity and guidance on the quality assessment to be undertaken by the manager prior to investing in VCs. Moreover, one respondent also highlighted that the factors stipulated by the rules were quite onerous. Another respondent queried on the frequency at which the quality assessments should be carried out.

A respondent noted that the quality assessment should also distinguish between the underlying exposures of the collective investment scheme to the VCs, taking into consideration whether the collective investment scheme invests in VCs for trading purposes or invests into the underlying technologies of the VCs.

2.8.2 MFSA Position

The Authority reiterates that the quality assessment requirement ensures that the appointed investment manager carries out appropriate research in order to assess the “quality” of the VCs being invested into. The factors presented in the respective rules of the framework are by no means exhaustive and the investment manager, as with any other asset class, should take into consideration other specificities of the VCs being invested into such as liquidity and market capitalisation.

The Authority wishes to clarify that the assessment should be carried prior to investing in the VC. Thereafter, the scheme should ensure that the VC investment, as with any other asset class, remains in accordance with the investment objectives, policy and restrictions described in the scheme’s offering documentation.

Further to section 2.4.2 of the Feedback Statement, collective investment schemes investing in the underlying technologies of VCs would fall within the scope of the regulatory framework of private equity funds and therefore outside the scope of the regulatory framework for collective investment schemes investing in VCs.

2.9 Diversification

2.9.1 Industry Comments

A number of respondents asked the Authority for further guidance in relation to the risk spreading requirement and more specifically the minimum number of VCs in which the collective investment scheme would be required to invest in order to fulfil the said requirement.

Another respondent argued that, in view of the limited number of VCs currently in circulation and the fact that a PIF targeting Qualifying Investors (“Qualifying PIF”) is not required, under the current regulatory *status quo*, to abide by the principle of risk spreading, the respective requirement should be removed.

2.9.2 MFSA Position

On the basis of the feedback received, the Authority has decided to maintain the regulatory *status quo* that currently exists under the existing PIF regime and conformity with the principle of risk spreading shall also remain optional for PIFs investing in VCs.

2.10 Safekeeping and Custody

2.10.1 Industry Comments

The majority of the respondents highlighted the fundamentally different nature of VCs when making reference to a PIF's obligation to have adequate safekeeping arrangements in place. More specifically, and in view of the fact that the ownership and control of VCs is typically established through the access to the private key/s, which in turn is/are stored in a wallet, the industry stressed the importance of clear guidance by the Authority as to what will be deemed as 'adequate' safekeeping arrangements.

One respondent opined that the investment manager of a PIF investing in VCs would need to have access at all times to the PIF's wallet due to the volatile nature of VCs.

Another respondent argued that the current best practices dictate that a multi-signature wallet is used whereby the custodian is one of the minimum two digital signatories required to access the said wallet.

2.10.2 MFSA Position

Within the DLT ecosystem, it should be clarified that a wallet stores the keys instead of the VCs as such. Therefore, the terms 'safekeeping arrangements' and 'custody' of VCs should be construed as referring to these keys.

As a minimum, a PIF investing in VCs should opt for a combination of cold and hot storage. With regard to cold storage, such PIF is expected to use a multi-signature wallet whereby the input of two out of two signatories would be required in order to access the wallet and transact

in VCs. The investment manager (or the investment committee and/or portfolio manager where the PIF is self-managed) is expected to be the first signatory and the custodian the second signatory. Subsequently, the investment manager (or investment committee and/or portfolio manager) may transfer, with the custodian's mandatory input, VCs from the multi-signature (cold) wallet to the sole-signature (hot) wallet to which the investment manager (investment committee and/or portfolio manager) will have sole access.

The adequacy of safekeeping and custody arrangements applicable to PIFs investing in VCs will be assessed by the Authority on a case by case basis. Interested applicants are required to attend a pre-application meeting with the Authority for initial feedback and guidance on the proposed arrangements.

2.11 Service Providers and Governing Body

2.11.1 Industry Comments

A number of respondents emphasised the need for further guidance on the requirement for proposed service providers to PIFs investing in VCs, including *inter alia* the investment manager and the custodian, to have sufficient financial resources and liquidity at their disposal to enable them to conduct their business as well as the business organisation, systems, experience and expertise deemed necessary by the MFSA for them to act as such.

Another respondent highlighted the disruptive impact of blockchain technology on auditing explaining that verification of transactions and valuation become a simple automated exercise for the auditor. Audit periods become less relevant on the blockchain as the financial activity of an entity may be 'audited' in real time. On the other hand, the challenge that emerges for an auditor is reviewing and forming an opinion on whether adequate safeguards are in place to address the security risks associated with VCs and their underlying technologies.

With reference to the requirement for an investment manager appointed to a PIF investing in VCs to establish an in-house investment committee, having at all times at least one individual with sufficient knowledge and experience in the field of VCs and their underlying technologies,

one respondent stated that, where the investment manager is authorised in an EU/EEA State or a Recognised Jurisdiction, no requirement for approval of such internal investment committee should be imposed on behalf of the Authority. In such cases, the investment manager should merely inform the MFSA that an in-house investment committee has indeed been established and submit the respective information and documentation on the said committee members' competence to the Authority.

Two respondents suggested that the requirement for a third-party investment manager of a PIF investing in VCs to establish an in-house investment committee is too onerous and is envisaged to increase costs for smaller PIFs with such investment strategy. Therefore, the respondents proposed the introduction of an exemption to this regard.

Finally, one respondent argued that certain obligations imposed on the governing body of a PIF investing in VCs, including *inter alia* the requirement to monitor the activities of the service providers and ensure that regular stress tests are conducted by the investment manager, are too onerous and should therefore be removed.

2.11.2 MFSA Position

The requirement for service providers of PIFs investing in VCs to have sufficient financial resources and liquidity at their disposal to enable it to conduct their business, and such business organisations, systems, experience and expertise deemed necessary by the MFSA for it to act as service providers to such PIFs, reflects the requirements of the traditional PIF framework that is already in place. The Authority wishes to clarify that, similar to any other asset class, the collective investment schemes shall be required to ensure that the proposed service providers meet these requirements. Competence of the relevant service providers in the area of VCs will be assessed by the Authority on a case by case basis.

Whereas DLT's inherent features may indeed enable real-time financial audits, this does not render periodic audit cycles irrelevant or obsolete. Even where auditors carry out 'real-time' financial audits, they would still be expected to perform assessments for verification purposes as part of the required periodic audit procedures. With reference to the potential challenges that

may be encountered by auditors when reviewing and forming an opinion on whether adequate safeguards are in place to address the inherent risks of VCs, the Authority reiterates the position stated under Point 2.7.2 whereby it expects auditors engaged by PIFs investing in VCs to have the necessary knowledge and expertise in this area.

Where an investment manager is authorised in an EU/EEA State or a Recognised Jurisdiction, the requirement for prior approval of the in-house investment committee members by the MFSA shall not be applicable. In such instances, instead of the submission of a Personal Questionnaire and Competency Form for each committee member, the governing body and the proposed investment manager of the collective investment scheme shall be required to submit a declaration confirming the existence of such in-house investment committee within the investment manager to the Authority along with any required information and documentation evidencing its members' competence in VCs.

The Authority denotes that the proportionality principle is enshrined in the current framework with alternative options being already available to smaller collective investment schemes, including *inter alia* the self-managed route as well as the establishment of the scheme as an IC to an existent SICAV ICC or RICC platform. Therefore, the Authority is of the view that the inclusion of an exemption from the requirement for a third-party investment manager of a PIF investing in VCs to establish an in-house investment committee is not required.

The Authority reiterates the fiduciary duties owed by the members of a collective investment scheme's governing body towards its unitholders. In combination with the nature of VCs and their underlying technologies, the MFSA retains its view that the additional requirements introduced by the framework are commensurate to their associated risks and are deemed necessary in order for such members to be in a position to discharge their statutory and contractual duties in a diligent manner.

2.12 Risk Management

2.12.1 Industry Comments

A respondent requested guidance on the investment manager's requirement to properly identify, measure, manage and monitor, on an ongoing basis, the risks associated with each investment position including the expected manner to conduct stress testing procedures on VC investments.

2.12.2 MFSA Position

The manner in which the investment manager (or investment committee and/or portfolio manager) performs the Risk Management function, including stress testing procedures, is a business decision that should be taken by the investment manager (or investment committee and/or portfolio manager) of the Scheme. The MFSA will issue guidance and other rules based on the industry best practices where deemed necessary.

2.13 Liquidity

2.13.1 Industry Comments

Several respondents required further guidance and clarification with regards to the liquidity policies and procedures applicable to PIFs investing in VCs.

One industry respondent also noted that VCs should be considered as "highly liquid assets", and thus the requirement for the use of side pockets should be removed. Meanwhile, other respondents noted that the inclusion of a mandatory disclosure within the offering documentation would eliminate the need for the scheme to ensure that the appointed investment manager confirms that the liquidity profile and the redemption policy are consistent.

2.13.2 MFSA Position

The Authority wishes to clarify that, similar to any other asset class, PIFs investing in VCs should ensure that the appointed investment manager employs an appropriate liquidity

management policy and adopts procedures which enable the investment manager to monitor the liquidity risk of the scheme and to ensure that the liquidity profile of the investments of the scheme complies with its underlying obligations.

It is the Authority's view that not all VCs can be considered as liquid and thus should not be termed as "highly liquid assets". Hence, similar to other asset classes, the scheme should ensure that the investment manager uses the appropriate liquidity management tools such as, *inter alia*, the use of side pockets and redemptions *in specie*, subject to sufficient and appropriate disclosures being included within the offering documentation.

Lastly, in view of the fiduciary duties owed by the members of a collective investment scheme's governing body towards its unitholders, the Authority is of the opinion that the requirement on the scheme to ensure that the appointed investment manager confirms consistency between the liquidity profile and the redemption policy is not onerous. Moreover, given the liquidity risks associated with VCs and their nascent nature, such a requirement would further place an additional governance safeguard.

2.14 Valuation

2.14.1 Industry Comments

In view of the novel nature of VCs, several respondents requested further clarification and guidance on the appropriate valuation policy and procedures expected by the Authority from PIFs investing in VCs.

2.14.2 MFSA Position

It should be clarified that valuation policies and procedures applicable to other asset classes should also be adopted to the valuation of VCs exposures and the calculation of the net asset value of the scheme. Hence, PIFs investing in VCs should adopt appropriate and consistent procedures so as to ensure proper and independent valuation of the assets as well as proper calculation of the scheme's net asset value. The MFSA will issue guidance and other rules based on the industry best practices where deemed necessary.

2.15 Listing

2.15.1 Industry Comments

One respondent queried whether listing on a regulated market will be available to PIFs investing in VCs.

2.15.2 MFSA Position

The Authority clarifies that, whereas the listing on a regulated market shall also be available to PIFs investing in VCs, such possibility shall not encompass those units which have been created through an ICO until the pertinent regulatory framework as outlined in the Discussion Paper, as may be amended further to the industry's feedback to the said paper, is implemented.

2.16 Reporting

2.16.1 Industry Comments

One respondent commented that further guidance is required on the manner PIFs investing in VCs will discharge their reporting obligations in terms of Article 3(3)(d) of the AIFMD.

2.16.2 MFSA Position

The MFSA is currently considering this matter and will be issuing further guidance in the due course.

3 CONCLUDING REMARKS

The Supplementary Licence Conditions applicable to PIFs investing in VCs are being finalised and will be issued in due course.

Any comments or queries in relation to the regulatory framework for PIFs investing in VCs or in relation to this feedback statement should be addressed to the following email: fintech@mfsa.com.mt.

Communications Unit
Malta Financial Services Authority
MFSA Ref: 06-2017
22nd January 2018