

Consultation Procedure

Explanatory Note

The documents circulated by the MFSA for the purpose of consultation are in draft form and consist of proposals. Accordingly these proposals are not binding and are subject to changes and revisions following representations received not only from licence-holders and other involved parties, but also following the necessary review and vetting by the Office of the Attorney General and the relevant Minister to whom the MFSA is required by law to provide advice on financial services matters. It is important that persons involved in the consultation bear these considerations in mind.

In the case of primary legislation in particular, Bills may and do undergo revisions during the Parliamentary stages.

This consultation is also being exercised at the request and on behalf of the Ministry of Finance, the Economy and Investment.

Note for Consultation

(Financial Institutions Act, Cap 376)

The MFSA is currently reviewing the provisions of the Financial Institutions Act (Cap. 376) with a view of transposing Titles I and II of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (the “Payment Services Directive”). The main aim of the Payment Services Directive is to provide the legal foundation for the creation of an EU-wide single market for payments, so as to make cross-border payments as easy, efficient and secure as 'national' payments within a Member State. The Payment Services Directive also seeks to improve competition by opening up payment markets to new entrants, thus fostering greater efficiency and cost-reduction. At the same time the Directive provides the necessary legal platform for the Single Euro Payments Area (SEPA).

In this respect, we are attaching **draft** amendments to the Financial Institutions Act (Cap.371) in order to seek consultation prior to implementation. Licence holders are kindly asked to submit any comments which they may have in relation to this draft legislation, in writing, by not later than **26 June 2009**.

Furthermore, it should also be noted that in the near future amendments shall also be made to the Financial Institutions Directives to incorporate those technical provisions found within Title II of the Payment Services Directive. Such changes shall include, *inter alia*, amendments to the initial capital requirements of payment institutions and on-going own funds calculations.

Please do not hesitate to contact Mr Karol Gabarretta – Director (Tel: 25485174, email: kgabaretta@mfsa.com.mt) or Dr Roberta Buhagiar – Manager, Regulation and Compliance (Tel: 25485351, email: rbuhagiar@mfsa.com.mt) should you have any queries or clarifications.

26 May, 2009.