

MFSA MALTA
FINANCIAL
SERVICES
AUTHORITY

Vision 2021

STRENGTHENING THE MFSA
AND PREPARING FOR THE NEXT
GENERATION OF FINANCIAL SERVICES

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Chairman's Note



Prof. John Mamo
Chairman

It is a great pleasure to introduce the MFSA's Vision 2021, which outlines our mission and core values. These are embedded within our work ethic and provide the framework within which we operate. This document also presents our vision, which we are determined to achieve to position the MFSA as a leading supervisory authority.

The financial services market presents a dynamic and ever-changing environment driven by technological advancements, new and more robust regulation together with other local and global developments. Recent events, both local and on a global level, may have adversely affected public trust in the market. The MFSA has never shied away from the challenges presented and in the face of such challenges, the MFSA is continuously striving to enhance the effectiveness and efficiency of its operations to safeguard the integrity and stability of the local financial market.

Our mission and vision aim to enhance public value, augment the integrity and stability of the local financial market and to further promote a healthy competitive market. We are working hard to ensure that we are a leading, accountable and transparent Regulator and are currently working on a number of initiatives, as outlined in this document, for the benefit of firms, consumers and our peers.

These initiatives will be complemented by a comprehensive strategic plan, designed to ensure that we achieve our vision.

Our risk framework will be a key input in our strategic plan. At the MFSA, we aim to be proactive in monitoring the trends in the financial market and in identifying potential risks or indicators of misconduct at an early stage. We shall address such risks for the benefit of the general public and the financial market at large. Hence, our risk framework will determine the context within which we operate and also determine our priorities for the coming years.

In view of the complex risk environment and the wide spectrum of risks associated with the financial market, the MFSA needs to be more proactive in planning how to address and mitigate such risks. This document complemented by our strategic plan for the coming years demonstrates our proactiveness and our determination to protect the interests of the general public, cater for innovative financial market solutions and ensure that the local financial market works in an effective, competitive and fair manner.

I would like to take this opportunity to welcome Joseph Cuschieri as the MFSA's first CEO and would like to thank all our personnel for their dedication, commitment and hard work. I strongly believe that, together, we can achieve our vision for the benefit of consumers, firms and the Maltese economy.

Foreword



Joseph Cuschieri
Chief Executive Officer

The financial services sector is one of the main pillars of the Maltese economy, playing a major role by being one of the main contributors, accounting for 11.2% of the total Gross Value Added (GVA), and 10.2% of employment¹.

The Malta Financial Services Authority (MFSA) operates within a complex and constantly evolving environment facing a number of challenges. Over the past years the growth in the financial services market has significantly increased the scale of licenced entities falling under the Authority's responsibility. Currently the MFSA is responsible for 2,300 licenced entities, varying in nature and complexity. The regulation surrounding the financial services sector has been overhauled by the European Union (EU) over the past years, which saw the introduction of various new regulations such as the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM) in the banking sector, Solvency II and the Insurance Distribution Directive (IDD) in the insurance sector and the Markets in Financial Instruments Directive (MIFID II).

The MFSA aims at protecting consumers of financial services, and safeguarding the integrity and stability of the financial system. The MFSA also has a role in promoting competitiveness within the local market. The financial market has been accelerating at a steady pace and consumer expectations have also increased. Our rigorous authorisation and supervisory processes are designed to prevent misconduct in the marketplace and promote growth in the financial services sector.

Nevertheless, we acknowledge that instances of misconduct by licenced entities have an impact on the integrity and stability of the financial market and public trust. We continuously strive to improve efficiencies in our structure, processes and methodology to cater for the heightened demands and expectations emanating from the implementation and transposition of new EU legislations, together with innovative services and products which are being provided on the market and also the drive to prevent financial crime.

The MFSA is currently revisiting its governance structure to take into account certain concerns expressed by stakeholders and therefore be in a better position to meet our key objectives. The proposed changes to our organisational structure are designed to strengthen our governance, streamline the organisational structure, and provide more clear lines of responsibility and accountability of the individual directorates within the Authority's remit. The first step of this revision to our organisational structure, was the introduction of the role of a Chief Executive Officer (CEO). On 24th April, 2018 I was honoured to have been entrusted with this role within the Authority. I am committed to ensure the success of the MFSA in overcoming the challenges brought by more rigorous regulations, technological innovations and the growing expectations of consumers. To further strengthen our corporate governance we are introducing a risk committee which will be responsible for the design, implementation and review of the risk management policies of the Authority. This will be complimented by the setting up

¹ "The contribution of the Financial Services Sector to the Economy", (October 2017), https://mfsa.com.mt/files/publications/Economic%20and%20Market%20Report/2017/2017_October_288.pdf

of an audit committee, which will scrutinise the governance, risk management and internal control mechanisms in place, to ensure the achievement of our mission and vision.

To be able to focus more on our role as a supervisory authority, the Registry of Companies, which previously fell within the remit of the MFSA, has been established as a separate and autonomous agency, set up through Legal Notice 144 of 2018.

In view of this backdrop, we are issuing this document to outline our mission, vision and our core values, which drive the MFSA in the conduct of its operations, are the foundation of our governance and are instilled in our work ethic. Our vision is to be a leading forward-looking financial services regulator, having the respect and trust of the industry and the general public, contributing towards a strong and dynamic financial sector.

The MFSA is currently working on a strategic plan which will enable the Authority to meet its vision. The strategic plan will draw on key enablers outlined in this document, which include:

Technological innovation – This is key in today's financial market. Financial services are constantly evolving at a high pace and as a result our strategic framework aims at understanding how the market is evolving and ensure that regulations cater for such innovative markets, whilst ensuring that our approach keeps pace with such changes. We also plan to invest and make further use of technology to facilitate interaction with stakeholders and also increase efficiencies in the deliverance of our supervisory activities.

Risk based supervisory approach – Applying a risk based supervisory approach is key to enhance the effectiveness of our supervisory role. Such an approach takes into account anti-money laundering and countering of financial terrorism (AML/CFT) risks in order to safeguard Malta's financial system.

Knowledge management – We will also continue enhancing the communication between the various directorates within the Authority and implement tools which will enable us to leverage on the knowledge we gain through the performance of our key functions.

Communication – Effective internal and external communication is key to the success of the MFSA. We are planning to redesign our website to provide an interactive platform facilitating communication with all stakeholders within the financial market. We are also working on communication strategies designed to inform and educate consumers. Our aim is to ensure we communicate in a timely, consistent, clear and transparent manner.

People – We aim at investing in staff and human resources to ensure that the Authority has the necessary expertise and technical competencies to carry out its functions effectively in today's dynamic financial environment. This is being achieved through *inter alia* rigorous and continuous training of staff carried out both locally and overseas. The proposed changes to our organisational structure are also intended to ensure the right sizing of human resources within each directorate.

Key to the success of the MFSA in achieving its vision is the work and commitment of its people. During the past months I positively noted the commitment and involvement of our personnel to address the challenges we face and appreciate their continued support and contribution. I am confident that together, and by adhering to our values of integrity, trustworthiness, dependability, independence and excellence, we can overcome the challenges, inherent to the financial sector and position Malta as a leading financial services jurisdiction within the EU, supervised by an Authority which is respected and trusted on a local and international level.

Chapter 1

Introduction



The Malta Financial Services Authority (MFSA) is the single regulator for financial services in Malta. It was established by law on 23 July 2002 taking over the supervisory functions previously carried out by the Central Bank of Malta, the Malta Stock Exchange and the Malta Financial Services Centre. The MFSA is an autonomous public institution which reports directly to Parliament.

Malta is a jurisdiction that is actively involved within the OECD, the EU and the Commonwealth in shaping global regulatory policy. The MFSA is a member of the European System of Financial Supervision (ESFS) which includes the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Securities and Markets Authority (ESMA) and the European Systemic Risk Board (ESRB). The MFSA forms part of the Single Supervisory Mechanism (SSM) within the European Central Bank (ECB) and participates in the SSM Supervisory Board decision-making mechanism.

The MFSA is a member of the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors (IAIS) and a signatory of the Multilateral Memorandum of Understanding with other members of these Institutions.

The financial services sector incorporates all financial activity including that of credit institutions, financial and electronic money institutions, securities and investment services companies, trading venues, insurance companies, pension schemes, trustees and crypto assets. The MFSA acts also as the Listing Authority and the Resolution Authority. With respect to the Resolution Authority, the MFSA is a member of the Single Resolution Board (SRB).

The MFSA is responsible for ensuring high standards of conduct and management in the financial services industry and is vigilant in identifying any practices which may adversely affect the economic interests of operators and consumers in the areas of financial activity that it supervises. The MFSA Act² binds the Authority: [i] to keep under review and to co-ordinate financial activity carried out in Malta; and [ii] to disseminate information about matters relating to the exercise of its functions to the public. The Authority has the power to investigate possible contraventions of the law or of licence conditions by operators. In pursuit of its functions, the Authority co-operates and collaborates with other financial regulatory bodies both locally and overseas.

In stating the main functions of the MFSA, the Act highlights the role of the Authority as the promoter of the general interests and legitimate expectations of consumers of financial services. The Authority may investigate any complaint made by a person having an interest in any financial services matter under any law. The MFSA must also promote fair competition practices and consumer choice within the financial services industry. The MFSA is responsible for consumer education and consumer protection in the financial services sector.

²MFSA Act - Malta Financial Services Authority Act, 1988 Cap. 330 as successively amended

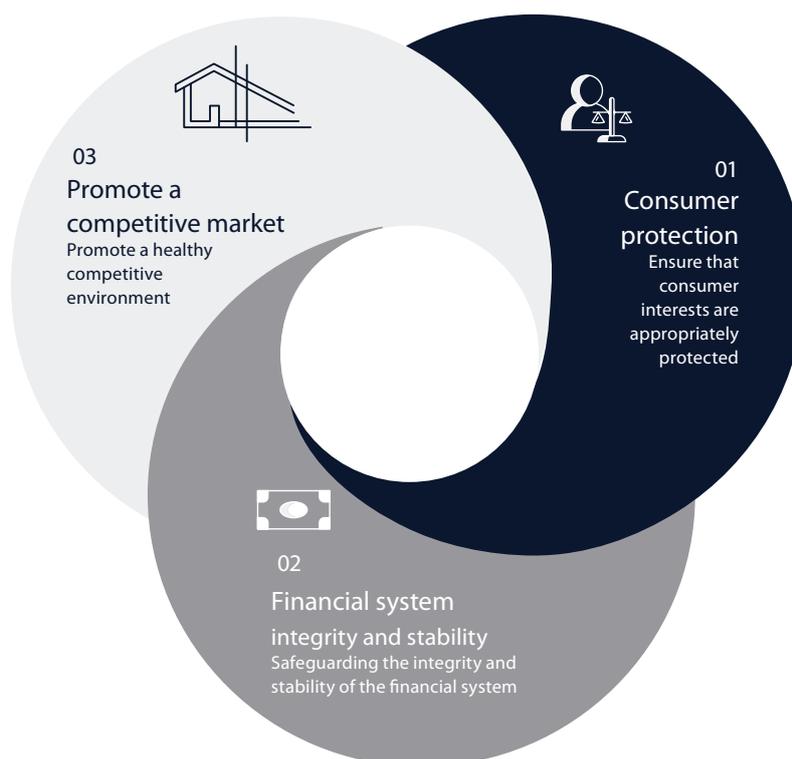
Chapter 2

Our mission, vision and values



Our Function

The MFSA regulates and supervises the financial services industry in Malta with the aim of achieving the three high level objectives of financial regulation, being:



Under the MFSA Act, the MFSA's function is:

- a) to regulate, monitor and supervise financial services in Malta;
- b) to promote the general interests and legitimate expectations of consumers of financial services, and to promote fair competition practices and consumer choice in financial services;
- c) to monitor and keep under review trading and business practices relating to the supply of financial services to private and other persons, and to provide relevant information and guidance to the public;
- d) to monitor the working and enforcement of laws that directly or indirectly affect consumers of financial services in Malta, and to undertake or commission such study, research or investigation which it may deem necessary in this regard;
- e) to advise the Government generally on the formulation of policies in the field of financial services, and to make recommendations to Government on action, which in the opinion of the Authority would be expedient in relation to matters falling within the regulatory and supervisory functions of the Authority;
- f) to investigate allegations of practices and activities detrimental to consumers of financial services, and generally to keep under review trading practices relating to the provision of financial services and to identify, and take measures to suppress and prevent, any practices which may be unfair, harmful or otherwise detrimental to consumers of financial services;
- g) to ensure high standards of conduct and management throughout the financial system;
- h) to perform such other functions or duties as may be assigned to it under this Act or any other law.

Our Mission

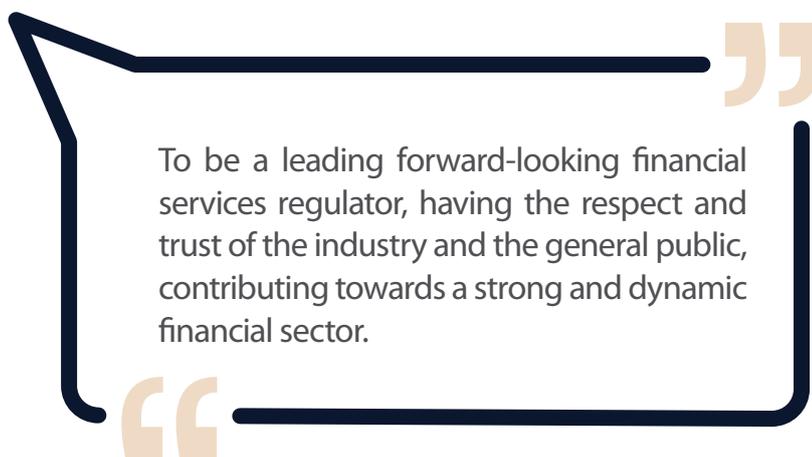
The MFSA's mission statement remains at the heart of all our operations and incorporates the priorities for the MFSA in carrying out its functions. Our mission statement is designed to also inspire and mobilise our employees.



To be an independent, proactive and trustworthy supervisory authority whose purpose is to safeguard the integrity of markets and maintain stability within the financial sector for the benefit and protection of consumers.

Our Vision

With the financial sector changing rapidly, the MFSA has chosen to step up its proactive shift to ensure that our timely actions will contribute to the public's confidence in the markets and institutions and thereby contribute towards a strong and dynamic financial sector.



To be a leading forward-looking financial services regulator, having the respect and trust of the industry and the general public, contributing towards a strong and dynamic financial sector.

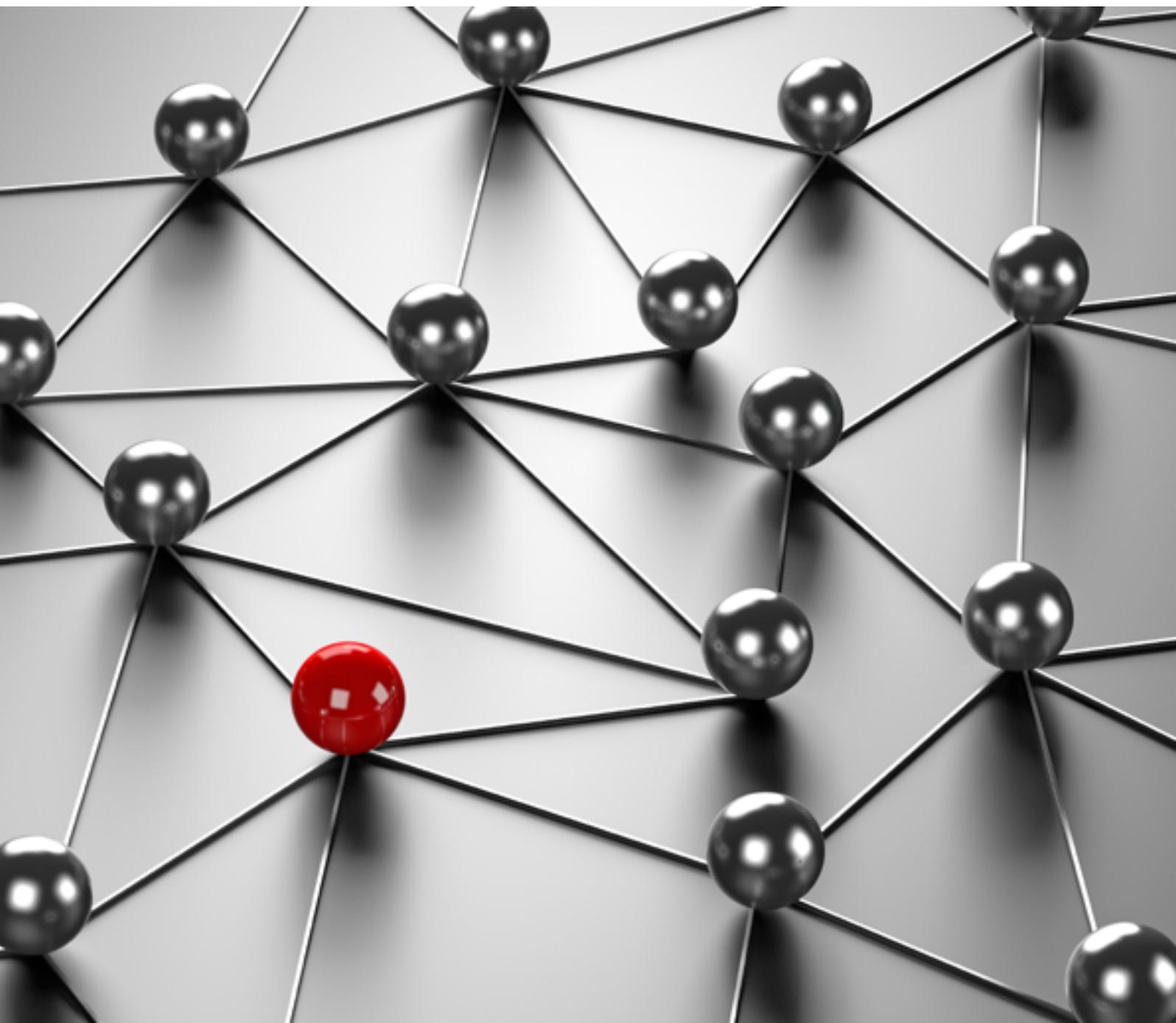
Our Values

Our mission and vision is driven by our five core values which guide the MFSA in the conduct of its operations and which are essential for the fulfilment of our mission and the achievement of our vision. They constitute the foundation of our governance and are instilled in our work ethic.

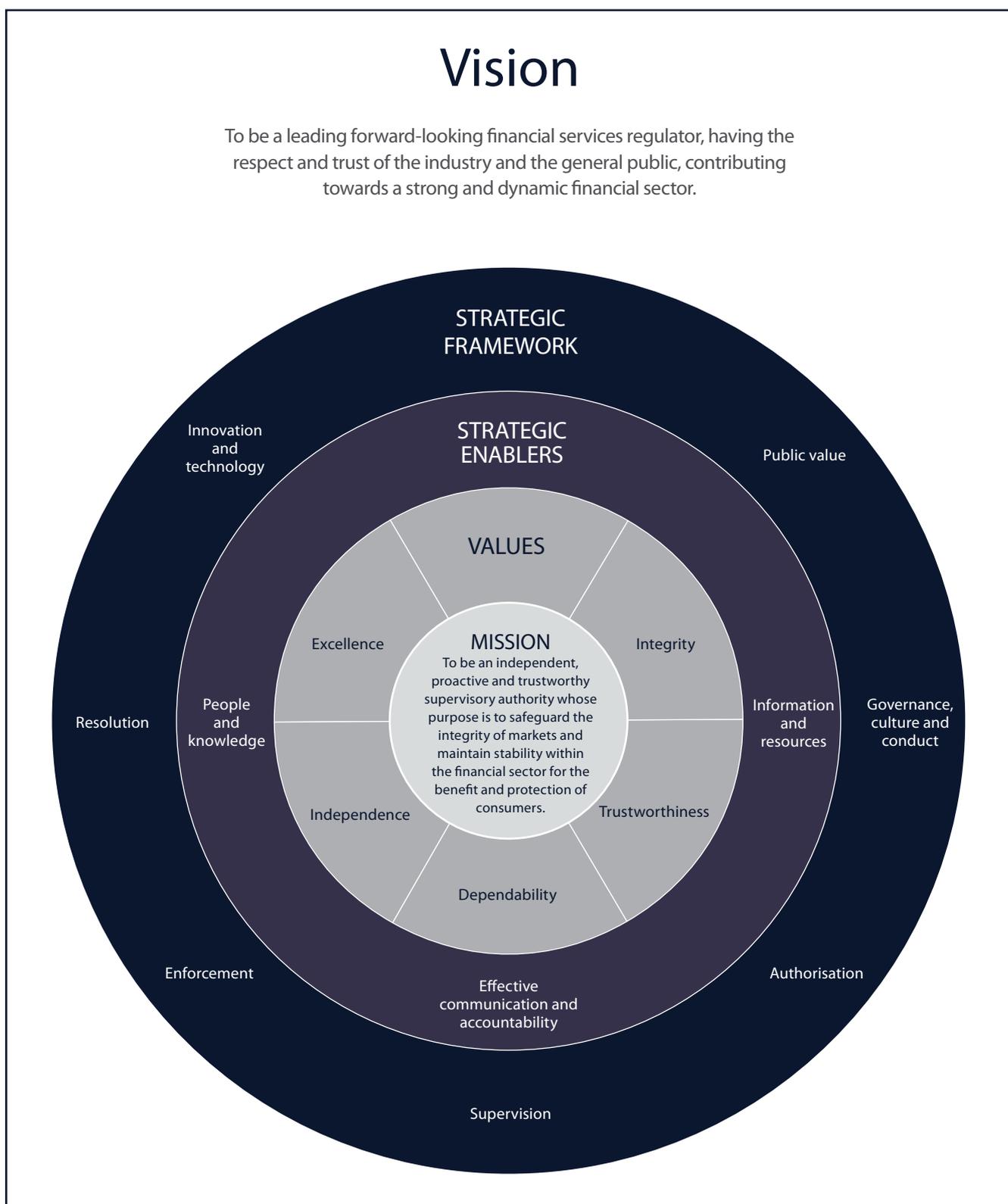


Chapter 3

Our strategic framework



Our strategic framework acknowledges that the achievement of our mission and vision is in large part dependent on how we organise our internal capabilities in order to address a broad and complex mandate. Within an overall context of efficiency and effectiveness we have identified a number of critical enablers which we recognise must be managed at a strategic level.



Public Value

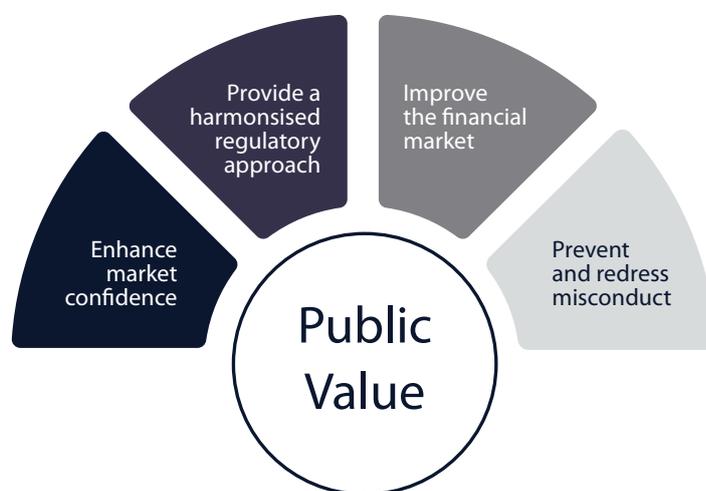
Firms operating within the financial services industry and regulated by the MFSA offer a wide array of products and services.

The principle activities of firms within the financial services industry vary from the provision of advisory services to the selling of products, which vary in complexity. The aim of the regulation is to lay down the principles that must be adhered to by firms, within the financial services sector, to protect the interests of the general public.

Public value is the value that a firm or organisation contributes to the society. Our aim as a regulator is to add public value by ensuring that firms, within the financial services sector, licenced by the MFSA, operate in a manner that benefits consumers and hence adds public value.

The MFSA plays a pivotal role in ensuring market trust and improving the stability and integrity of the financial market. We ensure that clear rules and standards are in place, which need to be followed by firms and individuals operating within the financial services sector. The MFSA is responsible for authorising firms or individuals providing financial services in Malta, giving consumers comfort that market players are scrutinised before being licenced to operate within the local financial market.

All firms and service providers, operating locally within the financial services sector, are constantly supervised and monitored by the MFSA to ensure market discipline, protect the interests of consumers and safeguard the integrity of the market. As a supervisory authority we seek to anticipate wrongdoing and intervene to prevent its occurrence. Investigations are carried out when breaches of the regulatory framework are suspected and the MFSA ensures that prompt action is taken to redress such misconduct and hence minimise repercussions on firms, consumers and the financial market.



At the MFSA, we promote competitiveness within the sector which creates further value to consumers by increasing efficiencies within the financial services industry and the wider economy. We continuously strive to assess the structure of the market and the relationship between consumers and firms, within the financial services industry. Where necessary, we intervene to ensure and promote a clean and competitive market.

To improve the manner in which the financial market operates we strive to understand consumer behaviour and seek to adjust the behaviour of providers when these are not aligned with the interest of the consumer. To further protect consumers, we also use our judgement to determine whether consumers should be protected from certain products. Innovation is also a key element of our strategic framework where we are continuously exploring innovative ways to improve the functioning and effectiveness of the financial market, and hence increase public value.

Governance, Culture and Conduct

The governance, culture and conduct of all market players in the financial services industry will affect the integrity and stability of the financial market.

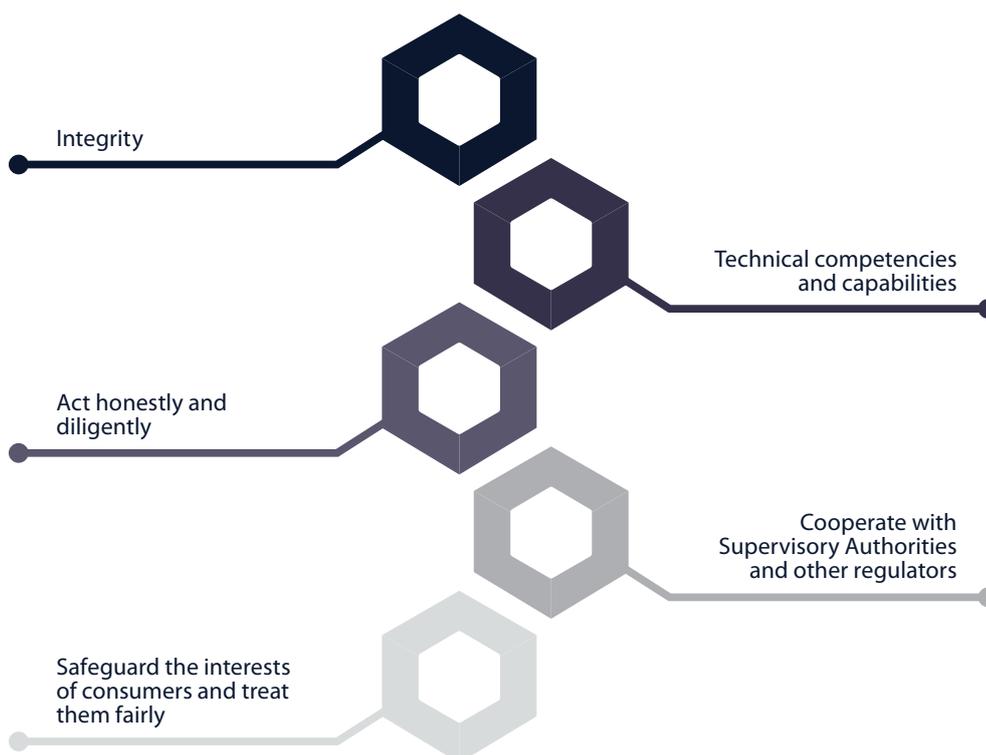
In carrying out our main functions, that is authorising firms, and the subsequent monitoring and supervision of such firms, we seek to understand the behaviour and culture within a firm. Our focus is on the drivers of behaviour and we strive to address any drivers identified which may trigger misconduct, by providing feedback and challenging drivers of behaviour we observe.

We also seek to understand the role of individuals within firms. The decisions of senior individuals within a firm significantly affect the conduct of a firm and shape a firms' culture.

Firms should ensure that senior and key individuals within the firm demonstrate the right standards of behaviour, setting the right tone at the top, which would hence positively contribute to a firm's culture.

We also evaluate the design and effectiveness of a firm's governance structure, reviewing their risk framework and assessing whether the governance structure and risk management framework are sufficient to identify risks of misconduct and whether a strategy is in place to address, manage and mitigate the risks identified.

Minimum Standards of Behaviour



Governance

The organisational structure of the MFSA ensures that the regulatory and operational functions of the Authority are exercised within strict legal demarcations. In September 2017, the Government of Malta issued a consultation document on strengthening the MFSA. The Government took note and shared with the MFSA the concerns expressed by various industry stakeholders regarding the level of efficiency and effectiveness of the MFSA's processes and the degree of supervisory engagement. The MFSA has also taken note of the concerns expressed by the International Monetary Fund (IMF), the European Commission (EC) and the European Supervisory Authorities, in relation to the MFSA's technical and human resources, and the extent of supervision.

As a first step, the role of a Chief Executive Officer (CEO) was introduced in the MFSA's organisational structure, with the responsibility for the overall performance of the Authority and the implementation of its objectives, strategy and policies, as set by the MFSA's Board of Governors. In addition, we are currently also restructuring our organisational structure with the aim of [i] addressing supervisory fragmentation; [ii] streamlining the organisational structure; [iii] ensuring efficacy in the decision-making process; and [iv] addressing supervisory gaps, as well as, eliminating duplication of supervisory processes. The proposed changes will strengthen our governance by providing for clear lines of responsibility and accountability of individual directorates in the execution of the Authority's remit.



Culture and conduct

Our culture and conduct is driven by our five core values, that is, integrity, trustworthiness, dependability, independence and excellence. These values are instilled in the manner we operate. We ensure that MFS officials adhere to these values whilst ensuring that they have the required technical competencies to ensure the effective and efficient functioning of the Authority.

In order to ensure that personnel within the financial services sector have the required competencies a cohesive and coherent strategy is necessitated and the MFS is well positioned to play a crucial role in this respect.

Reforming the Educational Consultative Council

It is being proposed that the Educational Consultative Council (ECC) should be reformed. Whilst retaining its current remit – that is to: [i] identify gaps in existing skills required by the financial services sector; [ii] provide support in relation to training programmes offered primarily by its members and other entities within the finance industry; [iii] promote careers within the financial services sector; and [iv] maintain a website to provide up to date information in this regard – it is proposed that the ECC should also be tasked with addressing the educational gap at all levels, including but not limited to the available qualifications in financial services (university degrees, diplomas, certificates, etc.) and the identification of new areas where education is necessary, particularly with regards to the areas of innovation identified, such as FinTech and RegTech, amongst others. In this regard, the ECC will be collaborating with the University of Malta and possibly other educational institutions in order to develop the necessary programs of studies to strengthen knowledge in the field of financial services.

The formation of an Academy of Excellence for Financial Supervisors

It is also being proposed that an 'Academy of Excellence for Financial Supervisors' is established to provide a yearly curriculum to train young and upcoming financial services supervisors, and to also ensure that experienced supervisors are given the opportunity to grow further and update their knowledge in this field, particularly with regard to techniques in financial supervision.

Multiculturalism

At the MFS we also appreciate the importance of having a diverse and inclusive workplace. Our aim is to have a multicultural workforce enabling us to develop and share our knowledge, and be in a better position to cater for the diversity of our customer base. Our recruitment strategy at all levels of the organisation focuses on an inclusive approach, free from discrimination and bias.

Business Process Reengineering

The MFS is also undertaking a Business Process Reengineering (BPR) project to [i] define internal standards and policies; [ii] remodel internal processes in order to improve efficiency and efficacy; [iii] adjust remits, handbooks and task descriptions; [iv] update organisational structures and define new functions; [v] enhance internal communication; [vi] enhance business intelligence and risk management; [vii] workflow management and business continuity; [viii] data and document management; and [ix] enhance cross-unit collaboration. Whilst the BPR will be addressing the Authority's internal operation, the revamp of the existing regulatory framework will be addressed by means of working groups with cross-sectorial expertise which, will be proposing amendments to the current legal and regulatory instruments.

Authorisation

Firms that want to provide any of a broad range of regulated services must obtain our authorisation.

Through authorisation and then supervision we ensure that firms and individuals meet the required standards and, more importantly, understand that they must continue to meet them for as long as they are authorised. Where they do not, we will not allow them to enter or remain a player in the relevant financial market.

To manage the flow of applications we receive for authorisation, we have a dedicated Authorisation unit. The Authorisation unit collaborates with all supervisory units within the MFSA. Our aim, within the Authorisation unit, is to use our tools and resources efficiently and cost-effectively to identify and mitigate any future misconduct, which may range from harm to consumers, both individually and collectively, and threats to effective competition and to market integrity. We focus on how to optimise our resources in order to ensure that our regulatory judgements are prudent and consistent.

We use authorisation primarily to prevent misconduct from occurring and this is obtained by ensuring that all regulated firms meet a common set of standards from the start. Where we issue a licence to firms, we publish their details on the Financial Services Register to help ensure that consumers can build trust in financial services. At authorisation stage we take a view on whether firms meet the conditions and once authorised we expect them to continue to do so for as long as they are authorised.

The objective of the MFSA is not to have firms only demonstrating that they can meet our conditions at the point of authorisation but that they will continue to do so thereafter in the provision of financial services to consumers. Inevitably, some firms will fail. Our aim is to ensure that if they do so, they leave the market in an orderly way which mitigates repercussions on consumers and the market.





Evaluation of firms

One of the main roles of the Authorisation unit is to establish whether applicants meet our conditions which are designed to prevent misconduct from occurring, with the aim to have firms continue to meet such conditions for as long as they operate. These conditions are:

For authorised firms:

- Our ability to supervise them effectively;
- Appropriate resources by the firm both with respect to the organisational structure, operational structure, financial resources and systems to deliver the products and services; and
- The firm's suitability to conduct the business, assessing in the process, the suitability and competence of staff, the appropriateness of the business model and the firm's controls and governance structure.

For individuals:

The concept of fitness and properness involves a rigorous test which requires senior staff of firms (both at authorisation stage and on an on-going basis) to demonstrate that they are:

- Honest people of integrity and hold a sound reputation – we will refuse to approve any individual whereby we are not satisfied of their honesty and integrity;
- Solvency and financial soundness; and
- Competence and capability to carry out the proposed role, based on experience and necessary qualifications.

Other factors we also look at include the type of financial services a firm wants to provide, the nature and size of its customer base and for the relevant individuals, their proposed position and level of responsibility.

Authorisation process

The authorisation process may be summarised in three phases namely:



Preparatory stage – we encourage prospective firms to hold a preliminary meeting with the MFSA to outline their proposal. It is essential that the prospective firms provide a comprehensive description of the proposed activity from the very beginning.

Following the preliminary meeting, proposed firms are required to submit the application form together with all supporting documentation as required in the regulations. All documentation is reviewed by the MFSA and clarifications are usually requested from prospective firms, following which such firms are invited to revert with relevant comments and amendments.

At this stage, we will consider the nature of the proposed activities and services and a decision will be made regarding which licence conditions should apply. Some licence conditions may not be applicable or may require amendments (where the circumstances justify such

treatment, as long as investors are adequately protected) and supplementary conditions may be applied.

The licence conditions are very important since they represent the ongoing requirements to which the Applicant will be subject, once licensed.

Pre-licencing stage – Once the review of the application form and supporting documentation has been completed and the draft licence conditions have been agreed, the MFSA issues an “in principle” approval for the issue of a licence. Prospective firms will be required to finalise any outstanding matters. A licence will be issued as soon as all pre-licencing issues are resolved.

Post-licencing/pre-commencement of business stage – The firm may be required to satisfy a number of post-licencing matters prior to formal commencement of business.

Refusing and revoking authorisation

Refusing authorisation

Our role is to provide support to firms to help them make the changes necessary for authorisation, this is though not an open-ended process. Our experience also shows that some firms are simply not ready to meet the conditions for authorisation. In such circumstances, we refuse to issue authorisation.

Authorisation is the gateway to providing certain financial services to consumers. If a firm or an individual does not meet the conditions, then we will not allow it to operate in the market.

Revoking authorisation

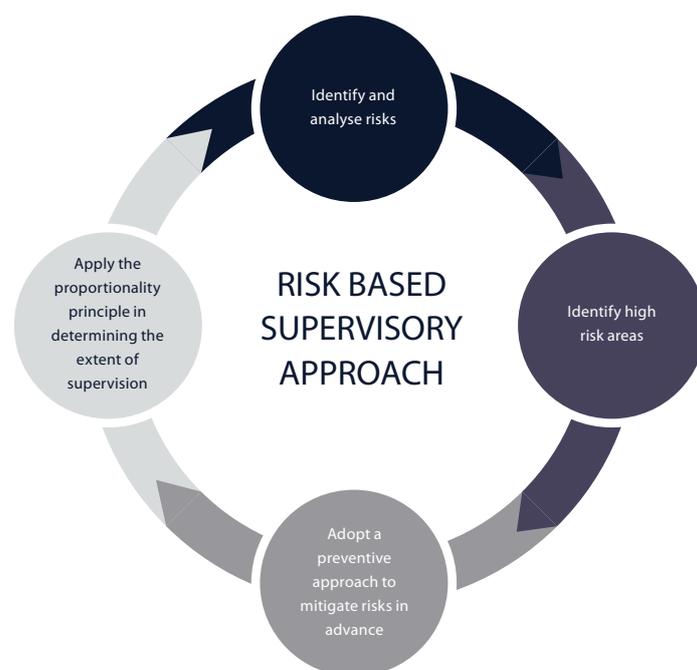
Unless we have mitigating evidence, we will revoke authorisation if a firm no longer meets the licence conditions. Where we decide to revoke a firm’s authorisation, we expect the respective firm to take appropriate steps to safeguard the interests of its customers.

Supervision

Supervisory principles

Our key supervisory principles that guide our work to help us prioritise our interventions and deliver our operational objectives are:

- **Forward-looking** – we aim to pre-empt poor conduct so that wrongdoing is minimised to the benefit of the consumers and markets.
- **Strategy and business models** – we systematically assess a firm’s strategies and business models to identify any emerging risk and to ensure our supervisory activity is tailored to mitigate such risks.
- **Culture and governance** – we look at the behavioural drivers which are likely to increase misconduct. These include the objectives and purposes of the firm, the attitude and behaviour, compliance and competence of the senior management, corporate governance, controls, processes and reporting lines.
- **Risk-based approach** – we adopt a risk based approach to financial supervision focusing our supervisory activities on the potential macro and micro prudential risks and also the conduct and AML/CFT risks associated to the firms we oversee.
 - The aim is to minimise the occurrence of breaches to protect consumer interests and safeguard the integrity and confidence in the financial market.
 - We adopt a principle-based approach to supervision guided by the proportionality principle. The extent of supervision depends on the nature and scope of the business activities and the overall risk profile.
 - In carrying out our supervisory role, we analyse the potential macroeconomic and microeconomic risks within the financial services market and focus on those risk areas which pose the greatest risk to the financial market.
- **AML Supervision** – our risk based supervisory approach also includes monitoring the compliance of licenced firms with AML regulations. We have a duty to co-operate with other Supervisory Authorities and law enforcement bodies to counter money laundering and terrorist financing. In addition, we are currently in the process of publishing an AML/CFT Supervisory Strategy, which will indicate how we intend to

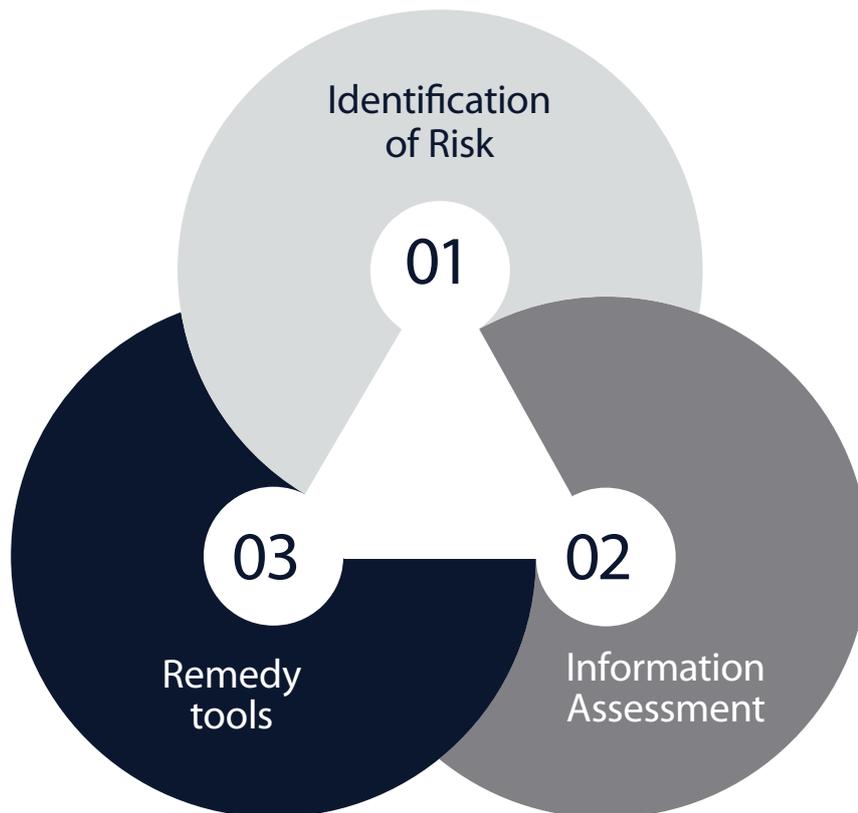


strengthen our supervision with the aim of achieving a higher degree of financial market integrity. We have also published a guidance note on Politically Exposed Persons (PEP), focusing on firms that have AML systems and controls overseen by the MFSA. The guidance note aims to address how firms can meet their obligations when opening new relationships or monitoring existing relationships relating to PEPs.

- **Open communication** – we engage directly with firms, consumers and investors in order to better understand issues they face and also highlight good and poor practices that we observe. In addition, we aim to be as transparent as possible about our work and our priorities.
- **Integrated** – internally, we work closely together to reach robust decisions, to share knowledge and information and to provide a consistent message throughout the financial services industry. On a global basis, we work closely with a number of international regulators on issues which are common across national borders.

Supervision process

The MFSA has an internal supervision framework used to shape and prioritise our supervision work.



Identification of Risk – business analysis and assessments are central to our pre-emptive identification of risk for all firms, which allows us to anticipate potential issues in firms and markets. Apart from our pre-emptive work, we also aim to deal with issues that are emerging or have happened, as quickly and efficiently as possible, to prevent the growth of the risk.

Information Assessment – in order to decide what type of action to pursue we take several factors into consideration. The quality and source of the information received is fundamental, followed by the scale and severity of the potential risk. Finally, the seriousness of the potential misconduct is assessed.

Remedy Tools – breaches of licensing conditions are not always a result of malicious intent. We expect firms to do their best to prevent breaches and to remedy them when they occur. Any breach should be duly notified to the MFSA.

We have four main objectives when there are breaches:

- Stop actual misconduct as quickly as possible;
- Ensure that the respective firms have addressed the breach;
- Address and examine the causes of the potential risk; and
- Hold the firm accountable for misconduct.

Enforcement

Consumers and investors making use of the diverse range of products and services offered by firms, within the financial services industry, need to have confidence in the firms offering such products and services and also the Authority which regulates these firms. Consumers and investors expect an open market, which is fair and competitive.

Through the enactment of the MFSA Act, the MFSA is responsible for monitoring the applicability and enforcement of laws that directly or indirectly effect consumers and investors of financial services. The aim of the regulations in place are to improve the manner in which firms within the financial services industry operate to the benefit of the general public, businesses and the economy at large.

Enforcement is of prime importance to protect consumers, enhance market stability, enhance market integrity and promote competitiveness in the market. An effective enforcement framework will enhance trust in the market, ensuring a harmonised approach to regulations.

Our approach to enforcement

Our approach to enforcement is aligned to our mission and values. To protect consumer interests and safeguard the integrity and stability of the financial market any misconduct needs to be identified and addressed in a timely manner. Our aim is to be a dependable Authority, as outlined in our values, and ensure that any wrongdoing is addressed in a fair and just manner. Any firms not complying with regulations or requirements are to be held accountable. Our approach to enforcement is based on the following key elements:

- Internal processes designed to detect breaches in an efficient manner;
- Respond in a timely manner to address such incidents;
- Ensure that investigations are transparent and fair;
- Impose deterrents to prevent misconduct;
- Acknowledge good corporate conduct by imposing lower penalties for firms who self-report any wrongdoing; and
- Ensure that any enforcement action and the basis for conclusions are properly communicated to ensure transparency and fairness.

How we identify misconduct

At the MFSA, we strive to detect any malpractice quickly to minimise any potential repercussions or consequences on the firms, consumers and the market, thus also facilitating the remediation process. The MFSA leverages on all intelligence and data collected from multiple sources. Our internal processes are designed to detect risk or instances of misconduct in an efficient manner, and such processes are reviewed on a periodic basis, to cater for any developments in the market and also identify areas for potential improvement. We also ensure that our personnel have the necessary technical competencies to carry out the duties and roles assigned.

The Enforcement unit within the MFSA is responsible for monitoring, detecting and investigating breaches by firms. The Enforcement unit works in close collaboration with the MFSA's Authorisation and Supervisory units to carry out its functions more efficiently and effectively.

How we deal with misconduct

There is a wide spectrum of violations, ranging from financial crime, anti-competitive behaviour, failures in the firms systems and controls, governance issues and delays in statutory filings amongst others. The extent of enforcement action taken by the MFSA depends very much on the nature and severity of the misconduct, taking into account, the potential repercussions on consumers and the financial market. At the MFSA, we encourage firms operating within the financial services sector to be accountable and examine their own affairs, to prevent malpractice. The MFSA acknowledges firms that demonstrate integrity by reporting and addressing any instances of wrongdoing, and whilst such firms may still be subject to an investigation, they will be subject to lower sanctions than firms who do not voluntarily account for and redress misconduct.

The investigatory process

The opening of an investigation does not imply that the firm, or individuals involved in the investigation, are guilty of a violation. The purpose of our investigation is to get a clear understanding of the facts, following which a decision can then be made, based on the best admissible evidence available, whether further action is indeed required.

In carrying out our investigations we aim to act in a fair and reasonable manner. When initiating an investigation, proper notice is given to the firm or concerned individuals, informing them also of the reason why such an investigation has been initiated. During the course of an investigation the firm or individuals involved in the investigation are kept updated on the next steps of the investigation.



A decision on the investigation outcome, is only taken once all evidence is gathered, following which the MFSA will determine the extent of enforcement action, if any required, which may include financial penalties, public censure, prohibition, suspension of licences, and criminal or civil proceedings, depending on the nature of the breach and the evidence obtained from investigations performed.

Sanctions imposed are intended to be sufficient to deter the firms or individuals found guilty of misconduct from being repeated and also to deter other firms or individuals from carrying out the same offence. We are currently reviewing the sanctions that can be imposed by the MFSA, through the various legislation governing the financial services sector, with a view to have a more coherent and harmonised structure.

Evaluating our approach to enforcement

On an annual basis we carry out assessments to determine whether our investigations were carried out in a fair and effective manner.

Factors taken into account during this assessment process includes, amongst others:

- Whether the outcomes from investigations were communicated in a fair, consistent and transparent manner;
- Whether the outcomes provided sufficient deterrence;
- Whether the subjects to an investigation feel they have been treated in a fair manner; and
- Whether appropriate remediation action was taken to protect the interests of consumers and also the financial market.



Resolution

The Recovery and Resolution Regulations (RRR) were enacted, through Legal Notice 301 of 2015, for the purpose of implementing Directive 2014/59/EU of the European Parliament and of the Council and the Bank Recovery and Resolution Directive (BRRD) of 15 May 2014. The purpose of the regulations is to establish a framework for the recovery and resolution of entities.

The Resolution Authority in Malta was established on 17 July 2015. The fact that the Resolution Authority falls within the remit of the MFSA facilitates data and knowledge sharing, as well as, proximity to the relevant supervisory units.

Roles and responsibilities

The Board of Governors of the MFSA, acts as the Resolution Authority. A Resolution Committee has been appointed by the Resolution Authority, whose composition, powers and functions are governed by provisions set out in the First Schedule to the MFSA Act and the RRR.

The Resolution Authority has assigned all its powers to the Resolution Committee which has all the necessary powers in order to carry out its functions. The Resolution Committee is ultimately responsible for taking resolution decisions pursuant to the MFSA Act and the RRR. The Resolution Authority also advises the Minister in respect of resolution matters.

The key objectives of the Resolution Committee are to act in such a way so as to safeguard the resolution objectives that is to:

- a) Safeguard the critical functions of resolution;
- b) Minimise risks to financial stability;
- c) Protect public funds;
- d) Protect depositors, client funds and client assets;
- e) Reduce the costs of resolution; and
- f) Minimise the destruction of value of an institution while also requiring the full assistance and collaboration of institutions.

The amendments to the MFSA Act also saw the creation of a Resolution unit, established to carry out the functions assigned to it under the Act, and as may be assigned to it by the Resolution Committee, from time to time.

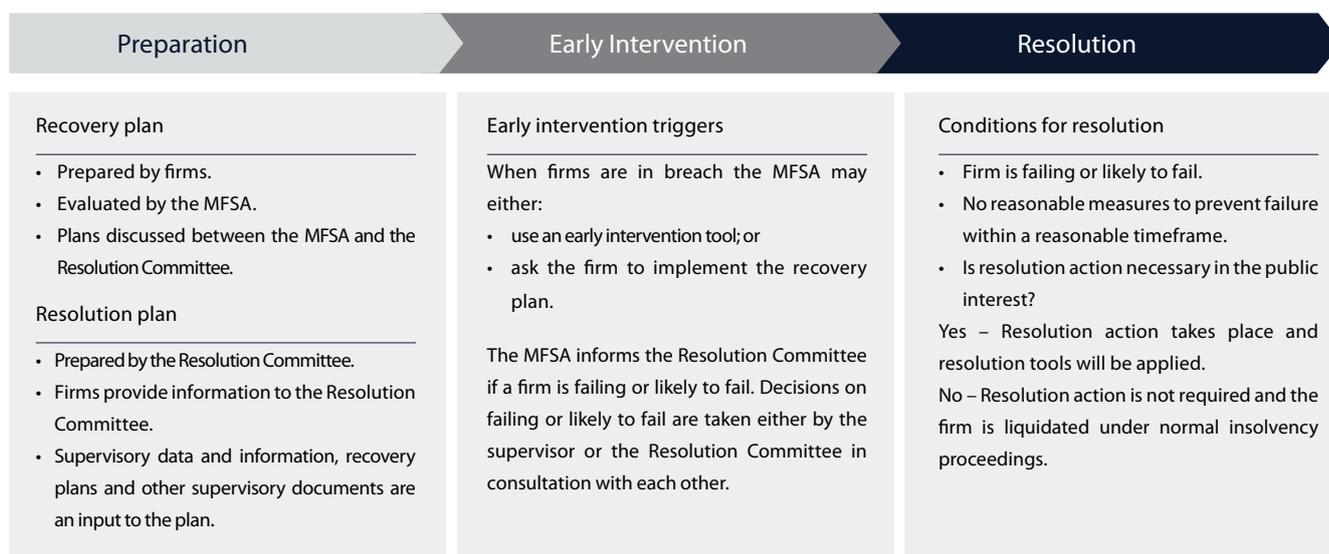


The Resolution unit is in charge of delivering appropriate information and recommendations to support the Resolution Committee's decision-making. In order to obtain the most appropriate data, and to carry out its functions, the Resolution unit is in constant communication with institutions, the supervisory units of the MFSA, and other Authorities, including the Central Bank of Malta and the Ministry for Finance. The Resolution Committee also interacts and collaborates closely with the SRB which is responsible for resolution matters at Banking Union level as established in the Single Resolution Mechanism Regulations.

The Resolution Authority and the Resolution Committee operate independently from each other and from the supervisory arm of the MFSA to ensure that the statutory responsibilities are achieved in a transparent and credible way and be in line with the provisions of the BRRD. The Resolution Committee notifies the Resolution Authority of decisions taken and the functions carried out by the Resolution unit.

Our approach to resolution

The Recovery and Resolution Regulations focuses on three key elements being preparation, early intervention and resolution.



Preparation

Firms falling within the scope of the regulations must prepare a recovery plan and submit it to the MFSA. This plan will be reviewed by the MFSA in its supervisory capacity. The recovery plan is one of the inputs to the resolution plan that will be prepared by the Resolution Committee for each firm, except those which fall under the direct responsibility of the SRB. The resolution plans are based on supervisory data and the information obtained from the respective firms.

Any risks or impediments to resolvability are identified during the planning and preparatory process and firms may be requested to take appropriate measures to address such risks.

Early intervention

On a day-to-day basis, the Resolution unit assesses firms' business and management structure and carries out a public interest assessment against the resolution objectives to identify the preferred resolution strategy for the firm should it be deemed as failing or likely to fail. This assessment is part of the resolution plan which also includes a resolvability assessment and the firm's ability to provide the necessary data and infrastructure to allow the Resolution Committee or the SRB to apply a resolution scheme. The resolution plan includes the preferred resolution strategy which may be resolution (and the appropriate tool) or normal insolvency proceedings.

When a firm is deemed to be in financial distress or certain triggers are identified, the supervisory arm of the MFSA will intervene and take appropriate action which may include requesting firms to draw up an action plan, implement part, or all, of the firm's recovery plan, request the replacement of the firm's management or apply other early intervention measures.

Resolution

Should a firm still not recover, the MFSA as the competent authority or the Resolution Committee may declare the firm as failing or likely to fail. The Resolution Committee will undertake a public interest assessment to determine if the firm will go into resolution or liquidated under normal insolvency proceedings. If the decision is to go for resolution, the Resolution Committee has a harmonised minimum set of resolution tools which may be applied when a firm is failing and there are no reasonable prospects of alternative recovery measures by the private sector. The Resolution Committee also has other powers including the replacement of senior management.

The resolution tools under the RRR are the following:

- to sell or merge the business with another firm;
- to set up a temporary bridge institution;
- to separate good assets from bad ones; and
- to convert to shares or write down the liabilities of failing firms (bail-in).

Innovation and Technology

The next generation of financial services business models, products and services is being shaped by the increasing significance of data and analytics, risk management and compliance, security, digitization, enterprise mobility, payments and enhanced customer experience.

Financial services are constantly evolving and it is our aim to keep abreast of changes to ensure that our regulations and approach keeps pace. Product and process innovation is a key feature of the financial services industry, as it responds to customer requirements and the need to increase operational efficiency. Malta has in recent years, seen an influx of several foreign-owned firms which have established dedicated innovation centres, particularly in data and analytics, online payment gateways and mobile banking.

Fintech

Across the spectrum of Fintech companies, from innovative start-ups and scaling companies seeking to create a new alternative financial sector, to established global financial institutions seeking competitive advantage via increasing adoption and deployment of technology, the focus on investment in financial services technology has never been greater. Global corporations are adopting multiple strategies to deliver on these challenges and opportunities, such as incubate, invest and collaborate.

Our aim is to provide a tailored approach to authorisation for innovative firms. Such a tailored approach may include the provision of pre-application support to firms, or authorising them with restrictions, in order for such firms to test their business models and products in a controlled environment.

Our strategy aims to build on our success to date, by working with new and existing companies to capture additional financial technology investment and help drive increased investment, entrepreneurship and employment across the industry.

Similar to other major financial services regulators, the MFSA is currently assessing viable solutions to nurture innovation and facilitate the industry's access to fintech. These ongoing assessments include *inter alia*:

- **Regulatory sandbox** – which is an environment in which businesses can test innovative products, services, business models and delivery mechanisms without immediately incurring all the normal regulatory consequences of engaging in the specific activity. Several international financial services regulators have adopted this strategy to scrutinise the innovator's proposal, on a case by case basis against a set of eligibility criteria.
- **Innovation hubs** – numerous regulators have set up innovation hubs to support and provide guidance to innovative firms, particularly with regards to the understanding and interpretation of the applicable regulatory framework. Such engagement can be established and maintained through written correspondence, as well as face-to-face meetings, between innovative firms and dedicated officials of the Authority.
- **Innovation Partnerships** – an innovation partnership, or innovation accelerator, is a partnership arrangement between innovators, incumbent firms and/or public sector authorities to accelerate growth or develop use cases.



Creation of a user centric website for the MFSA

The MFSA shall be replacing its website with a new more user centric website. A state of the art graphical user interface will provide quick-links to the various sections which will *inter alia* include a new dedicated section for prospective licence holders and a FAQ page.

Interactive rulebooks

We are proposing to implement an interactive rulebook, similar to those implemented by ESMA and the EBA. The proposed interactive rulebook shall form an integral part of the proposed user centric website. Through the use of drop-down/collapsible/expandable menus and tags which *inter alia* link the user to guidance notes, circulars as well as the legislative framework, the interactive rulebook will provide the industry with a state of the art online platform which facilitates access to the regulatory framework and a consistent implementation thereof.

Use and application of supervisory technology

The MFSA is implementing state of the art supervisory technology. This technology, commonly termed SupTech, will assist the MFSA to automate certain processes and effectively make the supervision of licence holders more efficient. Furthermore, data analytics, for example, can assist the Authority in detecting abuses, as well as handling, complex issues, problems and investigations.

MFSA's Licence Holder (LH) portal

The LH Portal is a platform built in-house by the MFSA's ICT team. In a nutshell, the LH Portal has two facets; [i] LH Portal External and [ii] LH Portal Internal. LH Portal external is the system used by licence holders to upload their submissions as per regulatory requirements. LH Portal internal is the system that transforms and distributes the received data to be used internally by the Supervisory units, it also connects with European Supervisory Authorities hubs to transmit data in specific formats and taxonomies. The MFSA is currently in the process of updating this Portal in order to accommodate additional business needs and recent European obligations. In order to reflect better the additional functions, the portal shall shortly be renamed FinHub.

Cyber-security

The Authority also intends to issue 'Guidelines on cybersecurity for regulated entities' with the aim of enhancing licence holders' cyber-resilience, particularly for firms which are reliant on technology. The proposed guidelines will set out the Authority's minimum expectations with regard to how entities should be addressing cyber-risk and the necessary safeguards which they should have in place. The proposed guidelines will also provide an assessment methodology which may be used in order to assess compliance thereto.

Chapter 4

What to expect from the MFSA?



What consumers, firms and peers are to expect from the MFSa?

The MFSa is currently working on a strategic plan focusing on short and long term strategies that will enable the Authority to achieve its vision of being a proactive and leading financial services regulator contributing towards a strong and dynamic financial sector.

Our strategies will draw upon the key enablers highlighted in this document, that is, people, knowledge, information, effective communication and accountability. This will benefit the consumer, the firms operating within the financial services sector and the economy at large.

The strategic plan will be issued for consultation with relevant stakeholders, following which, the strategic plan will be finalised by the Authority and communicated.

What can consumers expect?

Our strategic plan will focus on enhancing the core functions of the MFSa, that is, the authorisation, supervisory and enforcement functions within the MFSa, so as to ensure that consumers' interests are safeguarded. The strategic plan will seek to enhance our risk based approach to supervision to enhance the efficiency of our operations and increase market confidence. Whilst it is difficult to achieve a zero failure regime, our strategic plan will seek to enhance our effectiveness in preventing and detecting any misconduct in the market.

Our strategic plan will also focus on enhancing our communication with consumers to help consumers identify authorised firms, provide assistance in the event of fraudulent activity, and also issue warnings on any potential risks to consumers. We will also focus on keeping consumers informed of our role as a financial regulator and our supervisory and enforcement activities.

What can firms expect?

Firms operating within the financial services sector will be asked to participate in the consultation process. We will welcome any feedback or contributions which lead to the enhancement of our operations, as well as, the integrity and stability of the financial market.

Our strategic plan will focus on ensuring consistency in the manner in which we operate and in our communication to firms operating within the financial market. Our strategic plan will also seek to enhance our approach to authorisation, supervision and enforcement to ensure

we are consistent and transparent in our approach, and provide sufficient deterrents to misconduct.

Our drive to become more proactive will also affect firms, which need to be more vigilant in identifying risks of misconduct and in addressing these risks to avoid the occurrence of misconduct. This proactiveness in the market will enhance market confidence and safeguard consumers' interests. Our strategic plan will also focus on the accountability of all market players to safeguard the integrity and stability of the financial market and promote an environment of growth.

What can our peers expect?

The setting of the Authority's mission and vision document is just the first step towards a holistic plan to strengthen and protect the integrity and stability of the financial market, and safeguard consumer interests.

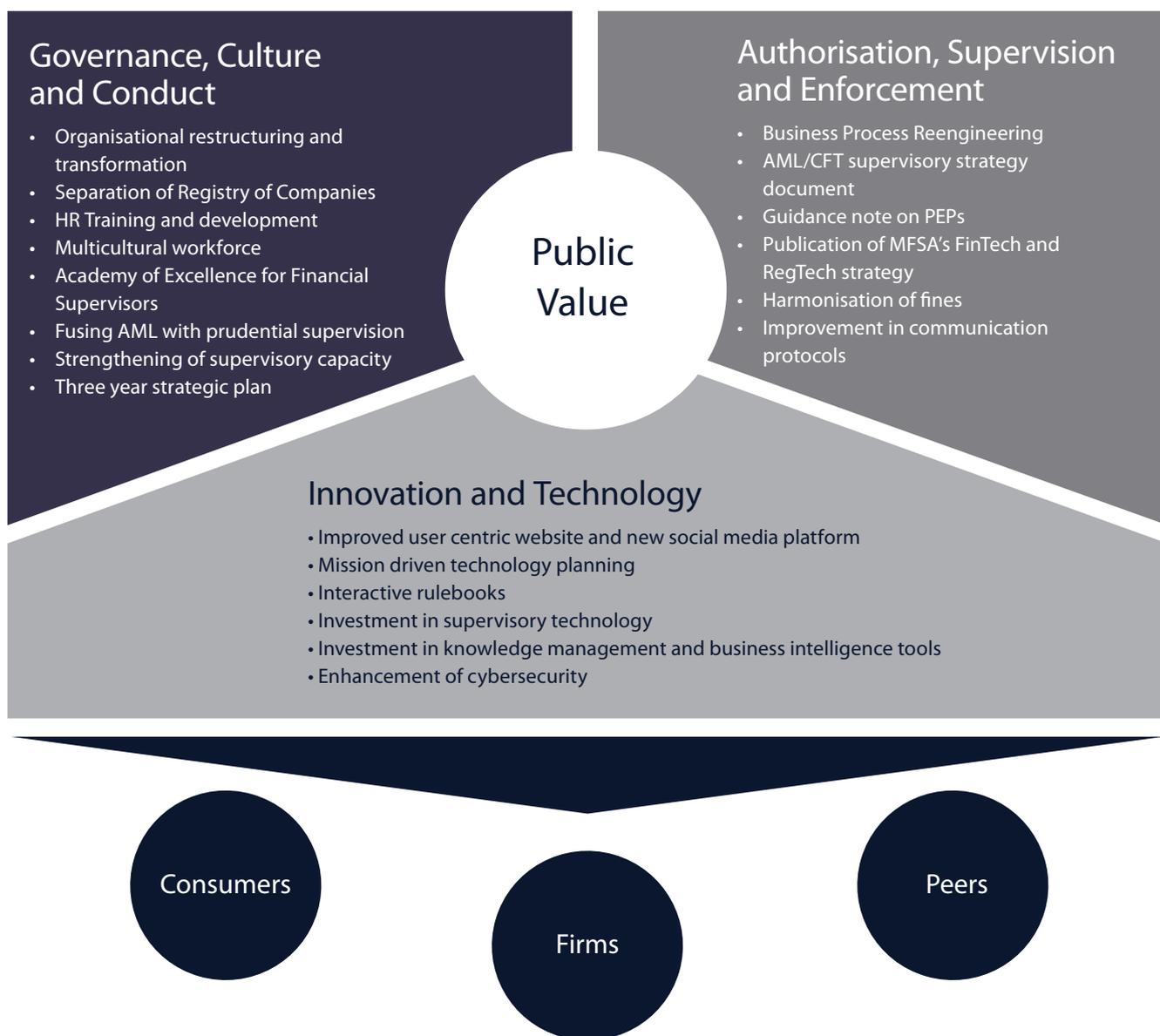
Malta is an international financial centre with a number of local licensed entities, also providing cross-border financial services. The MFSa collaborates with its peers in different jurisdictions with regard to the supervision of these firms. The MFSa constantly seeks to strengthen its relations with foreign financial supervisors through international and bilateral meetings, and the signing of memoranda of understanding. We aim at improving our protocols to facilitate the communication and cooperation with our peers and hence further strengthen the mutual trust and respect we share in this regard.

Our vision is to become a leading forward-looking financial services regulator, driven by our core values. The MFSa's approach to supervision is subject to regular scrutiny from the European Supervisory Authorities, the IMF and international standard-setters. Cooperation and effective communication with these stakeholders is key for us to be able to achieve our vision.

This document highlights a number of initiatives which are currently being implemented by the Authority and which will compliment the strategic plan, focusing on short-term and long-term strategies. The illustration provided summarises these initiatives in line with our strategic framework which will benefit all key stakeholders, that is, consumers, firms and our peers.

Our Strategic Framework

Current initiatives undertaken by the MFSA





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