

Draft Guidance Notes for Investment Services Licence Holders on the implementation of the Markets in Financial Instruments Directive [‘MiFID’]

24th August, 2007

MiFID, which replaces the Investment Services Directive, is a central element of the Commission Financial Services Action Plan. The transposition and implementation of MiFID has been on the Malta Financial Services Authority’s [‘MFSA’] agenda since 2004.

The transposition of MiFID is being effected through changes to the Investment Services Act, 1994 [‘ISA’], the Financial Markets Act, 1990 [‘FMA’], and the Regulations and Rules issued thereunder.

The changes to the ISA and FMA were made through the adoption by Parliament of the Various Financial Services Laws (Amendment) Act, 2007 which was published in the Government Gazette on the 3rd August 2007. The proposed amendments to the ISA and FMA Regulations were issued for consultation on the 24th May 2007 and are currently being finalised. The ISA Rules and FMA Rules were respectively published in draft format by the Authority on the 31st January 2007 and the 27th July 2007. The ISA Rules are currently being fine tuned and the Authority will be issuing an updated version of these Rules as soon as possible.

The new legal and regulatory framework to comply with MiFID and its implementing Directive is scheduled to come into force on the 1st November 2007, by which date, Investment Services Licence Holders and Regulated Markets must have policies and procedures in place which implement these provisions.

From an industry implementation point of view, in order to assist Investment Services Licence Holders to come in line with the requirements of MiFID, the MFSA established an ‘Industry Practical Implementation Agenda’ composed of a MiFID training programme, MiFID focused visits and the issuing of MiFID Guidance Notes. The training aspect of this agenda was held in May and July. In July the Authority also commenced its MiFID focused visits. The Authority is now, by way of this circular, publishing the MiFID Guidance Notes which have the aim of assisting the industry with the implementation of certain aspects of the Rules which have the purpose of transposing the MiFID.

In preparing these Guidance Notes, a copy of which is attached to this circular, reference was, inter alia, made to the Committee of European Securities Regulators Level 3 – MiFID guidance.

The Guidance Notes are meant to be a dynamic document and the Authority will be considering any comments on this document which the industry might wish to put forward at any time.

Contacts

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