

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Consultation Document

(Financial Institutions Act (Safeguarding of Funds) Regulations, 2010)

Consultation Procedure -Proposals for Legal Notices / Ministerial Regulations and for new laws and amendments to existing laws.

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.

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

Note for Consultation

The Financial Institutions Act (Safeguarding of Funds) Regulations, 2010 partly transpose Article 9 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, i.e. the Payment Services Directive. The main aim of Article 9 is to safeguard funds which are received by financial institutions carrying out payment services from payment services users or through other payment services providers for the execution of payment transactions. The Regulations explicitly provide that such funds constitute a distinct patrimony, and financial institutions carrying out payment services are obliged to segregate these funds and keep them separate from the funds of any other person.

Additionally, these Regulations are also intended to increase legal certainty, clarity and transparency in this area.

Licence holders are kindly asked to submit any comments which they may have in relation to these draft Regulations in writing to the **Banking Supervision Unit** on bu@mfsa.com.mt by not later than **24 September 2010**.

Communications Unit

Malta Financial Services Authority

24th August 2010.