

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Consultation Procedure

14th March 2011

Consultation on Proposed New Regulations largely to transpose UCITS IV Directive requirements

N.B. This consultation is not only relevant for UCITS schemes and their service providers given that some of the proposed New Regulations are also relevant for non-UCITS schemes.

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.

Background

The MFSA has for the past two years, been working on the transposition of Directive 2009/65/EC of 13th July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) – hereafter referred to as ‘the UCITS IV Directive’, which is to be transposed by Member States by not later than 30th June, 2011.

The UCITS IV Directive has been supplemented by four European Commission Implementing Measures being, [i] Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and management company; [ii] Commission Directive 2010/44/EU of 1 July 2010 implementing Directive 2009/65/EC of

the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure; [iii] Commission Regulation (EU) No 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities; and [iv] Commission Regulation (EU) No 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website. These requirements have been further supplemented at level III by CESR (now ESMA) guidance on the Key Investor Information Document ('KII') and on Risk Measurement.

On the 4th December, 2009 and the 5th January 2010, the Authority issued two consultation documents respectively on the UCITS IV Directive requirements concerning the KII and Master Feeder structures wherein the Authority had indicated its intention of transposing these requirements into Investment Services Rules. On further consideration, the MFSA has decided that where the technical nature of EU legislation permits, rather than transposing such legislation solely or primarily by way of amendments to MFSA Rules, it is preferable to do so primarily through the adoption of secondary legislation in the form of legal notices to be supplemented as appropriate by MFSA Rules, as the former are a more robust form of legislation. Consequently, the draft Rules which had been referred to in the above-mentioned consultation documents, have now been incorporated in draft regulations.

With the exception of the KII requirements for which a transitional period of one year, (ie up to 1st July, 2012) has been granted for schemes licensed before 1st July, 2011 to substitute their simplified prospectus with the KII, the UCITS IV Directive requirements are to be implemented by the industry by not later than 1st July, 2011. Whilst the changes to the local regulatory framework to transpose the UCITS IV Directive requirements will closely reflect the wording in the published Directive and its Implementing Measures, the Authority's objective is that of issuing for consultation, the main proposed changes to the current regulatory framework for UCITS within approximately the next two months. Licence Holders are expected to consider the relevant changes to their processes and procedures which may be required to come in line with the new requirements by the 1st July, 2011. After this date the Authority will be monitoring compliance with the applicable requirements which transpose the UCITS IV Directive through the Securities and Markets' Supervision Unit's off-site and on-site supervisory function.

The Transposition of the UCITS IV Directive

The MFSA has, for the purpose of transposing the UCITS IV Directive, drafted the following eight Regulations:

Investment Services Act (Authorisation and Passporting of UCITS) Regulations

Investment Services Act (UCITS Management Company) Regulations

Investment Services Act (Custodian) Regulations

Investment Services Act (Merger) Regulations

Investment Services Act (Retail Collective Investment Scheme Disclosure and Reporting) Regulations

Investment Services Act (Key Investor Information) Regulations

Investment Services Act (Feeder and Master UCITS) Regulations

The MFSA has also drafted the Investment Services Act (money market funds) Regulations which have the purpose of implementing the CESR Guidance on the common definition of money market funds.

The purpose of this circular is to provide a summary of the requirements emanating from the last four Regulations mentioned above and to serve as a consultation document in respect of these Regulations. The MFSA plans to issue the other draft Regulations for consultation over the coming weeks. Since the transposition of the UCITS IV Directive and particularly the implementation of ESMA's guidance will require amendments to the Investment Services Rules, the MFSA will, in due course, issue further consultation documents on these Rules.

Draft Investment Services Act (Retail Collective Investment Scheme Disclosure and Reporting) Regulations 2011:

The proposed Investment Services Act (Retail Collective Investment Scheme Disclosure and Reporting) Regulations 2011 apply to collective investment schemes within the meaning of article 2 of the Act, constituted or incorporated under Maltese Law and licensed by the Malta Financial Services Authority as retail collective investment schemes, whether as Maltese UCITS or not. The MFSA considers that for investor protection purposes, the same disclosure and reporting obligations should apply to all retail schemes, irrespective of whether these are UCITS or not. The draft Regulations transpose Articles 13 (1) (i), 54 (3), 55 (3) 2nd paragraph, 63 and 68 to 77 of the UCITS IV Directive. They will regulate the content of the prospectus and that of the annual and interim financial statements of UCITS and non-UCITS retail schemes. The requirements on the content of the prospectus vary according to whether the Scheme is open-ended or closed-ended. The draft Regulations also stipulate rules on marketing communications.

Draft Investment Services Act (Key Investor Information) Regulations 2011:

The proposed Investment Services Act (Key Investor Information) Regulations apply to Maltese UCITS and regulate the form and content of the key investor information document ('KII document'). The Regulations transpose Articles 78 to 82 and 118(2) of the UCITS IV Directive. If the Maltese UCITS is marketed outside Malta, the KII must be translated in one of the official languages of the host Member State or a language approved by the competent authorities of that State. The draft Regulations require all KII documents to contain certain essential information. The KII document must be concise but must specify from where other information may be obtained. The Maltese UCITS must send the KII to the Competent Authority and to the investors. KII documents must be provided to the investors free of charge. The MFSA is not under any obligation to review or comment on the KII. The draft Regulations provide that a UCITS may only be found liable for the contents of the KII if it is misleading, inaccurate or inconsistent with its prospectus. In accordance with the

requirements of the UCITS IV Directive, Maltese UCITS licensed prior to the 1st July 2011 have until 1st July 2012 to substitute their simplified prospectus with the KII document.

Draft Investment Services Act (Feeder and Master UCITS) Regulations 2011:

The proposed Investment Services Act (Feeder and Master UCITS) Regulations stipulate requirements applicable to collective investment schemes established in Malta and licensed by the MFSA as Maltese UCITS, and which qualify as Feeder UCITS or Master UCITS. A Feeder UCITS is a UCITS which has been permitted to invest at least 85% in another UCITS scheme (the latter referred to as the Master UCITS). The Regulations transpose and implement Articles 58 to 60 (4), 61 (1), 62, 64 to 67 of the UCITS IV Directive, as herein defined and articles 8 to 21, 24, 25 and 27 of the Implementing Directive as defined in the Regulations and they shall be interpreted and applied accordingly. The Regulations define and regulate Master and Feeder UCITS, including instances when a Maltese Feeder UCITS invests in a Master UCITS in another Member State. Furthermore, the Regulations impose obligations on the Maltese Feeder UCITS as well as on the Master UCITS when this is a Maltese scheme. The Regulations also include requirements applicable to a Maltese UCITS which is a feeder UCITS when its Master UCITS is to be liquidated and provide for exchange of information agreements between Feeder and Master UCITS and between their relevant custodians and auditors. The Regulations also provide for conversion of a UCITS into a Feeder UCITS and instances when a Feeder UCITS invests in a different Master UCITS.

Draft Investment Services Act (money market funds) Regulations 2011:

The draft Investment Services Act (money market funds) Regulations 2011, have the purpose of implementing the CESR Guidelines on a common definition of money market funds which were issued on 10th May, 2010. The Regulations apply to collective investment schemes which are marketed as money market funds and which are subject to risk spreading rules and whilst they will not only be applicable to UCITS schemes, they will therefore not apply to schemes licensed as Professional Investor Funds targeting Qualifying Investors or Extraordinary Investors given these schemes are not subject to prescriptive risk-spreading regulatory requirements. The Regulations distinguish between Money Market Funds and Short-Term Money Market Funds required in terms of the CESR Guidelines.

Interested parties are kindly asked to submit any comments which they may have in relation to the attached draft Regulations in writing, to the Director – Securities and Markets Supervision Unit, by e-mail on su@mfsa.com.mt by not later than 7th April 2011.

Contacts

Any queries or requests for clarifications in respect of the above should be addressed to: Mr. Christopher P. Buttigieg, Deputy Director, Securities and Markets Supervision Unit Tel: 25485229 cbuttigieg@mfsa.com.mt or Dr. Emalise Lofaro, Manager, Regulatory Development Unit Tel: 25485501 elofaro@mfsa.com.mt.

Communications Unit

14th March 2011

Prime Minister

**Chairman,
Malta Financial Services Authority**

**Minister of Finance, the Economy and
Investment**

L.N. ___ of 2011

**INVESTMENT SERVICES ACT
(CAP. 370)**

**Investment Services Act (Retail Collective Investment Scheme
Disclosure and Reporting) Regulations, 2011**

In exercise of the powers conferred by article 12 of the Investment Services Act, the Minister of Finance, the Economy and Investment, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Preliminary

Citation,
commencement
and scope.

1. (1) The title of these regulations is the Investment Services Act (Retail Collective Investment Scheme Disclosure and Reporting) Regulations, 2011.

(2) These regulations shall come into force on the 1 July 2011.

(2) These regulations shall apply to collective investment schemes within the meaning of article 2 of the Act, constituted or incorporated under Maltese Law and licensed by the competent authority as retail collective investment schemes, including a Maltese UCITS as defined hereunder.

(3) The requirements set in these regulations are in addition to the requirements stipulated in the Investment Services Act (Prospectus of Collective Investment Schemes) Regulations, 2005, as may be amended from time to time.

L. N. 392 of
2005.

(4) These regulations transpose and implement, in part, the provisions of articles 13, 54, 55, 63 and 68 to 77 of the UCITS Directive and they shall be interpreted and applied accordingly.

(3) In the event that any of these regulations conflict with the

provisions of the UCITS Directive, the latter shall prevail.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

“Act” means the Investment Services Act;

“Commission Regulation” means Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a web-site, as may be amended from time to time;

“Common fund” shall be construed as referring to contractual funds and unit trusts;

“competent authority” means the Malta Financial Services Authority established by article of the Malta Financial Services Authority Act;

“Custodian” means an institution entrusted with the duties specified by the Investment Services Act (Custodians of Collective Investment Schemes) Regulations, 2011 and licensed in terms of the Act;

“Feeder fund” means a collective investment scheme which invests at least 85% of its assets in another scheme or in a sub-fund of such scheme, and shall include a Feeder UCITS as defined in the Investment Services Act (Feeder and Master UCITS) Regulations, 2011;

“Investment company” shall be construed as referring to a scheme formed as a limited liability company or as a limited partnership;

L. N. 2011

“Key investor information” shall have the same meaning assigned to it in the Investment Services Act (Key Investor Information) Regulations, 2011;

L. N. 2011

“Maltese UCITS” shall have the same meaning assigned to it in the Investment Services Act (Authorisation, and Passporting of UCITS) Regulations 2011;

L. N. 2011

“Management company” shall have the same meaning assigned to it in the Investment Services Act (UCITS Management Company) Regulations, 2011;

“Marketing communications” means announcements to investors and includes “investment advertisements” as defined in Article 2(1) of the Act.

L. N. 2011

“Master fund” means a scheme which has among its unit-holders at least one Feeder fund, and shall include a Master UCITS as defined in the Investment Services Act (Feeder and Master UCITS) Regulations, 2011;

“Retail collective investment scheme” means a collective investment scheme which does not qualify as a professional investor fund and which is subject to the Investment Services Rules for Retail Collective Investment schemes in terms of its licence issued under the Act;

“Scheme” means a collective investment scheme established in Malta and licensed by the competent authority as a retail collective investment scheme, including a Maltese UCITS;

“UCITS Directive” means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

3. Where a scheme is a common fund, the obligations arising from these regulations which refer to the Scheme shall be construed as referring to the obligations of that Scheme’s management company

Part I

The Prospectus

The information to be included in the Prospectus.

4. (1) The scheme’s prospectus shall include the information necessary for investors to be able to make an informed judgment of the investment proposed to them, and in particular of the risks attached thereto, including a clear and easily understandable explanation of the scheme’s risk profile.

(2) The prospectus shall contain at least the information provided for in Annex I to these Regulations in so far as that information does not already appear in the instruments of incorporation of the scheme annexed to the prospectus. The prospectus shall also contain any other disclosure as may be required

by the competent authority in terms of any Investment Services Rules issued in terms of the Act or in terms of the scheme's licence conditions.

Additional information to be included in a prospectus.

5. (1) The prospectus shall indicate in which categories of assets a scheme is authorised to invest. Where the scheme may invest in financial derivative instruments, the prospectus shall include a prominent statement indicating whether investments in such derivative financial instruments may be carried out for the purpose of hedging or otherwise with the aim of meeting investment goals. The prospectus shall also include a prominent statement indicating the potential impact of the use of financial derivative instruments on the scheme's risk profile.

(2) Where a scheme invests principally in a category of assets defined in Annex II, or where a scheme replicates a stock or debt securities index, its prospectus and marketing communication shall include a prominent statement drawing attention to the scheme's investment policy.

(3) Where a scheme invests a substantial proportion of its assets in other schemes, the prospectus shall disclose the maximum level of management fees that may be charged both to the scheme itself and to other schemes in which it intends to invest. The scheme shall also indicate in its annual report the maximum proportion of management fees charged to the scheme itself and to the other schemes in which it invests.

(4) Where the scheme is authorised to invest up to 100% of its assets in different transferable securities and money market instruments issued or guaranteed by a Member State, one or more of its local authorities, a third country, or a public international body to which one or more Member States belong, the prospectus shall contain a prominent statement drawing attention to such authorisation and indicating the local authority or public international bodies in the securities of which it intends to invest or has invested more than 35% of its assets.

(5) Where the net asset value of a scheme is likely to have a high volatility due to its portfolio composition or the portfolio management techniques that may be used, its prospectus and marketing communications shall include a prominent statement drawing attention to that characteristic.

(6) Where the scheme's management company has outsourced part of its functions, the prospectus shall indicate the functions which have been outsourced.

Prospectus of a feeder scheme.

6. Where a scheme is a feeder fund, its prospectus shall, in addition to the information provided for in Annex I, contain the

following information:

(a) a declaration that the scheme is a feeder fund of a particular master fund and as such permanently invests 85 % or more of its assets in units of that master fund;

(b) the investment objective and policy, including the risk profile and whether the performance of the scheme and the master fund are identical, or to what extent and for which reasons they differ, including a description of the type of investment made;

(c) a brief description of the master fund, its organisation, and its investment objective and policy, including the risk profile and an indication of how the prospectus of the master fund may be obtained;

L. N. 2011

(d) a summary of the agreement entered into between the scheme and the master fund or of the internal conduct of business rules issued in accordance with regulation 6(4) of the Investment Services Act (Feeder and Master UCITS) Regulations 2011;

L. N. 2011

(e) how the unit-holders may obtain further information on the master fund and the agreement entered into between the scheme and the master fund in accordance with regulation 7 of the Investment Services Act (Feeder and Master UCITS) Regulations 2011;

(f) a description of all remuneration or reimbursement of costs payable by the scheme by virtue of its investment in units of the master fund, as well as of the aggregate charges of the scheme and the master fund; and

(g) a description of the tax implications for the scheme resulting from its investment in the master fund.

Additional documents to be attached to the prospectus.

7. The scheme's rules or instruments of incorporation shall form an integral part of the prospectus and shall be annexed thereto:

Provided that such documents need not be annexed to the prospectus where investors are informed that they may be supplied with such documents upon request or otherwise informed of the place where such documents may be accessed.

The prospectus to be kept up to date.

8. The essential elements of the prospectus shall be kept up to date.

The prospectus to be sent to the

9. (1) The scheme shall send a paper copy of its prospectus

competent authority and to the investors.

and any amendments thereto to the competent authority. Where the scheme is a feeder fund it shall also provide the competent authority with a paper copy of the prospectus of the master fund.

(2) Where the management company of the scheme is established in another Member State, the scheme shall provide the prospectus and any amendments thereto to the European regulatory authority of that Member State on request.

(3) A paper copy of the prospectus shall be delivered to the investors on request.

(4) Where the scheme is a feeder fund, it shall also provide investors with a paper copy of the prospectus of the master fund.

(5) The copy of the prospectus mentioned in subregulations (3) and (4) above shall be provided to investors free of charge.

(6) Where the scheme is a Maltese UCITS, it shall also comply with the conditions laid down in the Commission Regulation as may be amended from time to time.

Part II

The Annual Report and Interim Report

Annual Report and Interim Report.

10. (1) A scheme shall publish:

(a) an annual report for each financial year; and

(b) a half-yearly report covering the first six months of the financial year.

(2) The annual report shall include the following information:

(a) a balance-sheet or statement of assets and liabilities;

(b) a detailed income and expenditure account for the financial year;

(c) a report on the activities of the financial year;

(d) the information in Annex III of these regulations;

(e) any other significant information which will enable investors to make an informed judgement on the development of the activities of the Scheme and its results; and

(f) such other information which may be required by the competent authority in terms of Investment Services Rules issued under the Act or in terms of the scheme's licence conditions.

(3) The half-yearly report shall include at least the information in paragraphs 1 to 4 of Annex III and such other information which may be required by the competent authority in terms of Investment Services Rules issued in terms of the Act or in terms of the Scheme's licence conditions. Where a scheme has paid or proposed to pay an interim dividend, it must indicate its financial results after tax for the half-year concerned and the interim dividend paid or proposed to be paid.

Auditing of accounts.

Cap. 281.

11. The accounting information given in the annual report shall be audited by one or more persons empowered by law to audit accounts in accordance with the Accountancy Profession Act. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Publication and dissemination of reports.

12. (1) A scheme shall publish its annual and half-yearly reports in accordance with the following time limits:

(a) in the case of an annual report, within four months of the end of the period to which it relates; and

(b) in the case of a half-yearly report, within two months of the end of the period to which it relates.

(2) A scheme shall send its annual and half-yearly reports to the competent authority within the time limits stipulated in subregulation (1). Where the scheme is a feeder fund, it shall also provide the competent authority with a copy of the annual report and half-yearly reports of the master fund.

(3) The annual and half-yearly reports shall be made available to investors in the manner specified in the prospectus and in the manner specified by the key investor information in terms of the Investment Services Act (Key Investor Information) Regulations, 2011 where applicable.

(4) Upon request, a paper copy of the annual report and half-yearly reports shall be delivered to investors free of charge. Where the scheme is a feeder fund, a paper copy of the annual report and half-yearly reports of the master fund shall also be delivered to investors free of charge upon request.

Part III

Publication of other Information

Other
information.

13. (1) A scheme shall make public in an appropriate manner the issue, sale, repurchase or redemption price of its units each time it issues, sells, repurchases or redeems such units, and in any event it shall make such information public at least twice a month:

Provided that the competent authority may permit a scheme to reduce the frequency with which such information is made public to once a month on condition that such derogation does not prejudice the interests of unit-holders.

(2) Upon request from an investor, the scheme shall also provide supplementary information relating to the quantitative limits that apply in the risk management of the scheme, to the methods chosen to this end and to the recent developments with respect to the main risks and yields of the instrument categories.

Marketing
communications.

14. (1) Marketing communications shall be clearly identifiable as such. They shall be fair, clear and not misleading. In particular, any marketing communication comprising an invitation to purchase units of a scheme that contains specific information about a scheme shall not make statements that contradict or diminish the significance of the information contained in the prospectus and, where applicable, the key investor information.

(2) Marketing communications shall indicate that a prospectus exists and whether the key investor information is available. It shall specify where and in which language such information or documents may be obtained by investors or potential investors or how they may obtain access to them.

(3) Where the scheme is a feeder fund, it shall disclose in any relevant marketing communications that it permanently invests 85% or more of its assets in units of the master fund.

Annex I

Regulation 4 and 6

Schedule A

Prospectus of an open-ended scheme

1. Information concerning the scheme, where this is a common fund.	1. Information concerning the management company.	1. Information concerning the scheme where this is an investment company.
1.1. Name	1.1. Name or style, form in law, registered office and head office if different from the registered office.	1.1. Name or style, form in law, registered office and head office if different from the registered office.
1.2. Date of establishment of the scheme. Indication of duration, if limited.	1.2. Date of incorporation of the company. Indication of duration, if limited.	1.2. Date of incorporation of the scheme. Indication of duration, if limited.
	1.3. If the company manages other common funds, indication of those other funds.	1.3. In the case of a scheme having different investment compartments, an indication of the compartments.
1.4. Statement of the place where the fund rules, if they are not annexed, and periodic reports may be obtained.		1.4. Statement of the place where the instruments of incorporation, if they are not annexed, and periodical reports may be obtained.
1.5. Brief indications relevant to unit-holders of the tax system applicable to the scheme. Details of whether deductions are made at source from the income and capital gains paid by the scheme to unit-holders.		1.5. Brief indications relevant to unit-holders of the tax system applicable to the scheme. Details of whether deductions are made at source from the income and capital gains paid by the scheme to unit-holders.
1.6. Accounting and distribution dates.		1.6. Accounting and distribution dates.
1.7. Names of the persons responsible for auditing the scheme's financial statements.		1.7. Names of the persons responsible for auditing the scheme's financial statements.

	1.8. Names and positions in the company of the members of the administrative, management and supervisory bodies. Details of their main activities outside the company where these are of significance with respect to that company.	1.8. Names and positions in the scheme of the members of the administrative, management and supervisory bodies. Details of their main activities outside the scheme where these are of significance with respect to that scheme.
	1.9. Amount of the subscribed capital with an indication of the paid-up share capital.	1.9. Capital
1.10. Details of the types and main characteristics of the units and in particular: (a) the nature of the right (real, personal or other) represented by the unit; (b) characteristics of the units: registered or bearer. Indication of any denominations which may be provided for; (c) original securities or certificates providing evidence of title; entry in a register or in an account; (d) indication of unit-holders' voting rights if these exist; and (e) circumstances in which winding-up of the scheme can be decided on and winding-up procedure, in particular as regards the rights of unit-holders.		1.10. Details of the types and main characteristics of the units and in particular: (a) original securities or certificates providing evidence of title; entry in a register or in an account; (b) characteristics of the units: registered or bearer. Indication of any denominations which may be provided for; (c) indication of unit-holders' voting rights; and (d) circumstances in which winding-up of the scheme can be decided on and winding-up procedure, in particular as regards the rights of unit-holders.
1.11. Where applicable, indication of stock exchanges or markets where the units are listed or dealt in.		1.11. Where applicable, indication of stock exchanges or markets where the units are listed or dealt in.
1.12. Procedures and conditions of issue and sale of units.		1.12. Procedures and conditions of issue and sale of units.
1.13. Procedures and conditions for repurchase or redemption of units, and circumstances in which repurchase or redemption may be suspended.		1.13. Procedures and conditions for repurchase or redemption of units, and circumstances in which repurchase or redemption may be suspended. In the case of schemes having different investment compartments, information on how a unit-holder may pass from one compartment into another and the charges applicable in such cases.
1.14. Description of rules for		1.14. Description of rules for

determining and applying income.		determining and applying income.
1.15. Description of the scheme's investment objectives, including its financial objectives (e.g. capital growth or income), investment policy (e.g. specialisation in geographical or industrial sectors), any limitations on that investment policy and an indication of any techniques and instruments or borrowing powers which may be used in the management of the scheme.		1.15. Description of the scheme's investment objectives, including its financial objectives (e.g. capital growth or income), investment policy (e.g. specialisation in geographical or industrial sectors), any limitations on that investment policy and an indication of any techniques and instruments or borrowing powers which may be used in the management of the scheme.
1.16. Rules for the valuation of assets.		1.16. Rules for the valuation of assets.
1.17. Determination of the sale or issue price and the repurchase or redemption price of units, in particular: (a) the method and frequency of the calculation of those prices, (b) information concerning the charges relating to the sale or issue and the repurchase or redemption of units, (c) the means, places and frequency of the publication of those prices.		1.17. Determination of the sale or issue price and the repurchase or redemption price of units, in particular: (a) the method and frequency of the calculation of those prices, (b) information concerning the charges relating to the sale or issue and the repurchase or redemption of units, (c) the means, places and frequency of the publication of those prices. Where the scheme does not have a custodian the prospectus shall also indicate: (a) the method and frequency of calculation of the net asset value of units; (b) the means, place and frequency of the publication of that value; and (c) the regulated market in the country of marketing the price on which determines the price of transaction effected out with stock exchanges in that country.
1.18. Information concerning the manner, amount and calculation of remuneration payable by the scheme to the management company, the custodian or third parties, and reimbursement of costs by the scheme to the		1.18. Information concerning the manner, amount and calculation of remuneration payable by the company to its directors, and members of the administrative, management and supervisory bodies, to the custodian, or to third

management company, to the custodian or to third parties.		parties, and reimbursement of costs by the company to its directors, to the custodian or to third parties.
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2. Information concerning the custodian:

2.1. Name or style, form in law, registered office and head office if different from the registered office; and

2.2. Main activity.

3. Information concerning the advisory firms or external investment advisers who give advice under contract which is paid for out of the assets of the scheme:

3.1. Name or style of the firm or name of the adviser;

3.2. Material provisions of the contract with the management company or the investment company which may be relevant to the unit-holders, excluding those relating to remuneration; and

3.3. Other significant activities.

4. Information concerning the arrangements for making payments to unit-holders, repurchasing or redeeming units and the making available of information concerning the scheme. Such information shall outline the arrangements made in this regard in Malta and all the Member States where the scheme is being actively marketed.

5. Other investment information:

5.1. Historical performance of the scheme (where applicable) — such information may be either included in or attached to the prospectus; and

5.2. Profile of the typical investor for whom the scheme is designed.

6. Economic information:

6.1. Possible expenses or fees, other than the charges mentioned in paragraph 1.17 of this Annex, distinguishing between those to be paid by the unit-holder and those to be paid out of the assets of the scheme.

Schedule B

Prospectus of a closed-ended scheme

1. General Requirements

1.1 The scheme may draw up the prospectus as a single document or separate documents. A prospectus composed of separate documents must divide the required information into a Share Registration Document, a Securities Note and a Summary Note. The Share Registration Document must contain the information relating to the scheme. The Securities Note must contain the information concerning the units offered to the public.

1.2 The summary must, in a brief manner and in non-technical language, convey the essential characteristics and risks associated with investing in the scheme. It must also convey the essential characteristics and risks associated with any guarantor and the scheme. The summary shall also contain a warning that:

- i. it should be read as an introduction to the Prospectus;
- ii. any decision to invest in the units of the scheme should be based on consideration of the Prospectus as a whole by the investor;
- iii. where a claim relating to the information contained in the Prospectus is brought before a court, the plaintiff investor might have to bear the costs of translating the Prospectus before the legal proceedings are initiated; and
- iv. civil liability attaches to those persons who have tabled the summary including any translation thereof, and applied for its notification, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the Prospectus.

2. Contents of the Prospectus

2.1 The Prospectus of the scheme may be drawn up as:

- i. a combination of the following documents:
 - a. a Share Registration Document;
 - b. a Securities Note; and
 - c. a Summary Note; or
- ii. a Single Document.

2.2 The Prospectus must clearly indicate both the offer price as well as the number of units to be issued. It must also include a declaration by the Directors of the scheme, or its administrative management body (whose names and functions or in the case of legal persons, their names and registered offices appear on the Prospectus), to the effect that to the best of their knowledge, the information contained therein is in accordance with facts and the Prospectus makes no omission likely to affect its import.

2.3 The competent authority may exempt a scheme, on a case by case basis, from disclosing certain information required to be disclosed in terms of Directive 2003/71/EC or Commission Regulation (EC) No 809/ 2004 of 29th April, 2004, which is not considered relevant for the purposes of the scheme. In arriving at its decision to exempt the scheme from disclosing any information included in Directive 2003/71/EC or the Regulation, the competent authority shall consider whether:

- i. disclosure of such information would be contrary to the public interest; or
- ii. disclosure of such information would be seriously detrimental to the scheme, provided that the omission would not be likely to mislead the public with regard to facts and circumstances essential for an informed assessment of the scheme and of the rights attached to the units of the scheme to which the Prospectus relates; or
- iii. such information is of minor importance only for a specific offer and is not such as will influence the assessment of the financial position and prospects of the scheme.

3. Prospectus as a combination of documents

3.1 When the Prospectus is drawn up in separate documents:

- i. the contents of the Share Registration Document shall be drawn in accordance with the provisions of Part II of Part A of the Second Schedule of the Companies Act, 1995
- ii. the contents of the Securities Note shall be drawn in accordance with the provisions of Part III of Part A of the Second Schedule of the Companies Act, 1995; and
- iii. the contents of the Summary Note shall be drawn in accordance with the provisions of Part IV of Part A of the Second Schedule of the Companies Act, 1995.

4. Prospectus as a single document

4.1 When the Prospectus is drawn up as a single document, it shall be drawn in compliance with the provisions of Part I of Part A of the Second Schedule of the Companies Act, 1995.

Annex II

Category of Assets referred in regulation 5 (2)

1. Units of schemes authorised in terms of the UCITS Directive and other collective investment schemes falling within the definition of a UCITS scheme, should they be situated in a Member State or not provided that:

1.1. such other collective investment schemes are authorised under laws which provide that they are subject to supervision considered by the competent authority to be equivalent to that laid down in Community law, and that co-operation between authorities is sufficiently ensured;

1.2. the level of protection for unit-holders in such other collective investment schemes is equivalent to that provided for unit-holders in a UCITS scheme, and in particular that the rules on assets segregation, borrowing, lending and uncovered sales of transferable securities and money market instruments are equivalent to the requirements of the UCITS Directive;

1.3. the business of the other collective investment schemes is reported in half yearly and annual reports to enable investors to assess the assets and liabilities, income and operations over the reporting period;

1.4. no more than 10 per cent of the assets of the UCITS schemes or of the other collective investment schemes whose acquisition is contemplated, can, according to their full Prospectus or instruments of incorporation, be invested in aggregate in units of other UCITS schemes or other collective investment schemes; and

2. Deposits with credit institutions which are repayable on demand or have the right to be withdrawn, and maturing in no more than 12 months, provided that the credit institution has its registered office in a Member State or, if the registered office of the credit institution is situated in a non-Member State, provided that it is subject to prudential rules considered by the competent authority as equivalent to those laid down in Community Law; and

3. Financial derivative instruments, including equivalent cash-settled instruments, dealt in on a regulated market; and/or financial derivative instruments dealt in over-the-counter;

Annex III

(Regulation 10)

Information to be included in the periodic reports

1. Statement of assets and liabilities:
 - transferable securities,
 - bank balances,
 - other assets,
 - total assets,
 - liabilities,
 - net asset value.
2. Number of units in circulation (not applicable to closed ended schemes)
3. Net asset value per unit
4. Portfolio, distinguishing between:
 - (a) transferable securities admitted to official stock exchange listing;
 - (b) transferable securities dealt in on another regulated market;
 - (c) recently issued transferable securities;
 - (d) other transferable securities;

and analysed in accordance with the most appropriate criteria in the light of the investment policy of the scheme (e.g. in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the above investments the proportion it represents of the total assets of the scheme.

Statement of changes in the composition of the portfolio during the reference period.

5. Statement of the developments concerning the assets of the scheme during the reference period including the following:
 - income from investments,
 - other income,
 - management charges,
 - custodian's charges,
 - other charges and taxes,
 - net income,
 - distributions and income reinvested,
 - changes in capital account,
 - appreciation or depreciation of investments,
 - any other changes affecting the assets and liabilities of the scheme,
 - transaction costs, which are costs incurred by a scheme in connection with transactions on its portfolio.

6. A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:

- the total net asset value,
- the net asset value per unit.

7. Details, by category of transaction within the meaning of Annex II carried out by the scheme during the reference period, of the resulting amount of commitments.

8. Where the scheme is a feeder fund, a statement on the aggregate charges of the scheme and the master fund.

The annual and the half-yearly report of the scheme shall indicate how the annual and the half-yearly report of the master fund can be obtained.

Prime Minister

**Chairman,
Malta Financial Services Authority**

**Minister of Finance, the Economy and
Investment**

L.N. ___ of 2011

**INVESTMENT SERVICES ACT
(CAP. 370)**

Investment Services Act (Key Investor Information) Regulations, 2011

In exercise of the powers conferred by article 12 of the Investment Services Act, the Minister of Finance, the Economy and Investment, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Citation,
commencement
and scope.

1. (1) The title of these regulations is the Investment Services Act (Key Investor Information) Regulations, 2011.

(2) These regulations shall come into force on the 1 July 2011.

(3) The objective of these regulations is to lay down the key investor information which must be disclosed by collective investment schemes established in Malta and licensed by the competent authority as Maltese UCITS and to transpose and implement the provisions of articles 78 to 82 and 118(2) of the UCITS Directive and they shall be interpreted and applied accordingly.

(4) In the event that any of these regulations conflict with the provisions of the UCITS Directive, the latter shall prevail.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

“Act” means the Investment Services Act;

“Commission Regulation” means Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the

Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a web-site, as may be amended from time to time;

“Common fund” shall be construed as referring to contractual funds and unit trusts;

“competent authority” means the Malta Financial Services Authority established by article of the Malta Financial Services Authority Act;

“Investment company” shall be construed as referring to a Maltese UCITS formed as a limited liability company or as a limited partnership;

“Key investor information” or “KII” means key information for investors as defined in regulation 3 of these regulations;

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“Maltese UCITS” shall have the same meaning assigned to it in the Investment Services Act (Authorisation, and Passporting of UCITS) Regulations, 2011;

LN of 2011.

“Management company” shall have the same meaning assigned to it in the Investment Services Act (UCITS Management Company) Regulations, 2011;

“UCITS Directive” means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

3. Where a Maltese UCITS is a common fund, the obligations arising from these regulations which refer to the Maltese UCITS shall be construed as referring to the Maltese UCITS’ management company.

Requirement of document containing KII.

4. (1) Maltese UCITS shall draw up a short document containing key information for investors.

(2) The words “key investor information” shall be clearly stated in the document.

LN of 2011.

(3) Where a Maltese UCITS is marketed outside Malta in accordance with the notification procedure set out in the Investment Services Act (Authorisation and Passporting of UCITS) Regulations, 2011, the words “key investor information” shall be stated in one of the official languages of the host member state or in a language approved by the competent authority of that host member state.

(4) No further alterations or supplements other than translation in the language of the host member state or in a language approved by the competent authority of that host member state shall be made to the KII.

Content of
KII.

5. (1) The KII shall include information about the essential characteristics of the Maltese UCITS that is appropriate to reasonably enable investor to understand the nature and the risks of what is being offered by such Maltese UCITS and to enable them to take investment decisions on an informed basis.

(2) Without prejudice to subregulation (1), the KII shall provide the following essential information :

- (a) identification of the Maltese UCITS ;
- (b) a short description of the investment objectives and investment policy of the Maltese UCITS;
- (c) a presentation on past performance or, where relevant, performance scenarios;
- (d) costs and associated charges; and
- (e) the risk and reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investment in the Maltese UCITS.

(3) The information in the KII shall be readily understandable by investors without having to refer to other documents.

(4) The Maltese UCITS shall ensure that the detailed and exhaustive contents of the KII are drawn up in accordance with the applicable provisions of the Commission Regulation.

(5) The essential elements of the KII shall be kept up to date.

Additional
information.

6. The KII shall clearly specify where and how to obtain additional information on the Maltese UCITS, including but not limited to where and how the prospectus and the annual and half-yearly reports can be obtained free of charge at any time, as well as the language in which such information is available.

7. (1) The KII shall be written in a concise manner and in non-technical language.

Format of KII.

(2) The KII shall be drawn up in a common format, allowing for comparison, and shall be presented in a way that is likely to be understood by retail investors.

8. (1) The KII shall constitute pre-contractual information. It shall be fair, clear and not misleading and consistent with the relevant parts of the prospectus.

Liability of
Maltese
UCITS.

(2) A Maltese UCITS shall not be liable solely on the basis of the information contained in the KII unless such information is misleading, inaccurate or inconsistent with the relevant parts of the prospectus. The KII shall contain a warning to this effect.

To whom and
when the KII is
to be provided.

9. (1) A Maltese UCITS which sells its units directly or through another person acting on its behalf and under its full and unconditional responsibility, shall provide investors with KII in good time before the proposed subscription of units by investors in the Maltese UCITS.

(2) A Maltese UCITS, which does not sell its units directly or through another person acting on its behalf and under its full and unconditional responsibility shall present KII to product promoters and other intermediaries selling or advising investors on potential investment in such Maltese UCITS or in products offering exposure to such Maltese UCITS upon their request.

(3) Investment Services Licence Holders selling or advising investors on potential investments in a Maltese UCITS shall provide KII to their clients or potential clients.

(4) The KII shall be provided to investors free of charge.

(5) The KII may be provided to investors in a durable medium or by means of a website.

(6) A paper copy of the KII shall be delivered to investors free of charge upon request.

(7) Maltese UCITS shall comply with the provisions of the Commission Regulation on providing the KII in a durable medium other than on paper or by means of a website.

KII to be sent to the Authority and to Investors.

10. (1) Maltese UCITS shall submit KII and any amendments thereto to the competent authority.

(2) The competent authority shall not be under any obligation to review or comment on the KII submitted to it in accordance with subregulation (1).

(3) An up-to-date version of the KII shall be available on the website of a Maltese UCITS or on that of its management company at all times.

Transitional arrangements.

11. Maltese UCITS licensed prior to the 1 July 2011 shall replace their simplified prospectus with KII drawn up in accordance with these regulations as soon as possible, and in any event no later than the 1 July 2012.

Prime Minister

**Chairman
Malta Financial Services Authority**

**Minister of Finance, the Economy and
Investment**

L.N. ___ of 2011

**INVESTMENT SERVICES ACT
(CAP. 370)**

Investment Services Act (Feeder and Master UCITS) Regulations, 2011

In exercise of the powers conferred by article 12 (1) the Investment Services Act, the Minister of Finance, the Economy and Investment, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Preliminary

Citation, scope
and
commencement.

1. (1) The title of these regulations is the Investment Services Act (Feeder and Master UCITS) Regulations, 2011.

(2) These regulations shall come into force on 1st July 2011.

(3) These regulations stipulate requirements applicable to collective investment schemes established in Malta and licensed by the competent authority as Maltese UCITS, and which qualify as feeder UCITS or master UCITS as herein defined.

(4) These regulations also have the purpose of transposing and implementing Articles 58 to 60 (4), 61 (1), 62(1), (2) and (4), 64 to 67 of the UCITS Directive, as herein defined and articles 8 to 21, 24, 25 and 27 of the Implementing Directive as herein defined and they shall be interpreted and applied accordingly.

(5) In the event that any of these regulations conflict with the provisions of the UCITS Directive and the implementing Directive, the said Directives shall prevail.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

“Act” means the Investment Services Act;

“Common fund” shall be construed as referring to contractual funds and units trusts;

“Competent authority” means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;”

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as amended by the Protocol signed at Brussels on the 17th March 1993, and as amended from time to time;

“Feeder UCITS” means a UCITS which is permitted to invest at least 85% of its assets in units of another UCITS, hereinafter referred to as the ‘master UCITS’;

“the Implementing Directive” means Directive 2010/42/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure;

“Investment company” shall be construed as referring to a UCITS incorporated in the form of a limited liability company or a limited partnership;

L.N. ___ of 2011. “Key investor information” means key information for investors in terms of the Investment Services Act (Key Investor Information) Regulations, 2011;

L.N. of 2011. “Maltese UCITS” shall have the same meaning as is assigned to it in the Investment Services Act (Authorisation, and Passporting of UCITS) Regulations, 2011;

L.N. of 2011. “Management company” shall have the same meaning as in the Investment Services Act (UCITS Management Company) Regulations, 2011;

“master UCITS” means a UCITS, which:

- (a) has, among its unit-holders, at least one feeder UCITS;
- (b) is not itself a feeder UCITS; and
- (c) does not hold units of a feeder UCITS;

“Member State” means a Member State of the European Communities;

L.N. of 2011.

“UCITS” means an undertaking for collective investment in transferable securities as defined in sub-regulation (2) of regulation 3 of Investment Services Act (Authorisation, and Passporting of UCITS) Regulations, 2011 and may include a Maltese UCITS or a UCITS established in another Member State or EEA State;

“the UCITS Directive” means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as may be amended or updated from time to time, and includes any implementing measures that have been issued or may be issued thereunder;

“Without undue delay” means within not more than one working day from the relevant date, unless otherwise justified by exceptional circumstances according to the competent authority’s judgement.

(2) Words and expressions which are also used in the Act shall have the same meaning as assigned to them in the Act.

General Provisions

Where the Maltese UCITS is a common fund.

3. Where the Maltese UCITS is a common fund, the obligations arising from these regulations which refer to the Maltese UCITS shall be construed as referring to the Maltese UCITS’ management company.

Feeder UCITS’ permitted investments and calculation of its global exposure.

4. Apart from its investment in the master UCITS, a feeder UCITS may hold up to 15% of its assets in one or more of the following:

- (a) ancillary liquid assets;
- (b) financial derivative instruments, which may be used only for hedging purposes;
- (c) movable and immovable property which is essential for the direct pursuit of the business, if the feeder UCITS is an investment company:

Provided that, for the purpose of ensuring that its global exposure relating to derivatives does not exceed the total net value of its portfolio, the feeder UCITS shall calculate its global exposure related to financial derivative instruments by combining its own direct exposure under paragraph (b) hereof, with either:

- (i) The master UCITS’ actual exposure to financial derivative

instruments in proportion to the feeder UCITS' investment into the master UCITS; or

(ii) The master UCITS potential maximum global exposure to financial derivative instruments provided for in the master UCITS fund rules or instruments of incorporation in proportion to the feeder UCITS investment into the master UCITS.

Derogations. **5.** (1) Where a Maltese UCITS which is a master UCITS does not raise capital from the public other than from the public in Malta and from feeder UCITS established in other Member States or EEA States, such Maltese UCITS shall not be required to passport in those other States in terms of Investment Services Act (Authorisation and Passporting of UCITS) Regulations 2011;

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2011

(2) Where a Maltese UCITS which is a master UCITS has at least two feeder UCITS as unit-holders, regulation 3(2)(a) of the Investment Services Act (Authorisation and Passporting of UCITS) Regulations 2011 shall not apply as regards to the raising of capital from the public, giving the master UCITS the choice whether to raise capital from other investors.

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2011

Approval by the competent authority

Approval by the competent authority. **6.** (1) A Maltese UCITS which is a feeder UCITS shall obtain the authorisation of the competent authority before investing in a given master UCITS in an amount which exceeds the limit applicable for investment in other UCITS set out in the risk diversification conditions applicable to Maltese UCITS as laid down in the Investment Services Rules issued by the competent authority in terms of the Act.

(2) The competent authority shall inform the Maltese UCITS which is a feeder UCITS whether or not it has approved its investment into the master UCITS, within 15 working days following the submission of the complete set of documents as stipulated in regulation 7.

Documents to be provided to the competent authority. **7.** (1) The competent authority's authorisation in terms of regulation 6, shall be subject to the verification by the competent authority that the Maltese UCITS which is a feeder UCITS, its custodian and its auditor as well as the master UCITS comply with all the requirements of these regulations and any other requirements which may be laid down by the competent authority from time to time in Investment Services Rules.

(2) For the purposes of ensuring compliance with subregulation (1), the Maltese UCITS which is a feeder UCITS shall provide the competent authority with the following documents:

- (a) the fund rules or instruments of incorporation of the Maltese UCITS which is a feeder UCITS and those of the master UCITS;
- (b) the prospectus and the key investor information of the Maltese UCITS which is a feeder UCITS and of the master UCITS;
- (c) the agreement between the Maltese UCITS which is a feeder UCITS and the master UCITS, or the internal conduct of business rules in terms of regulation 8(7);
- (d) where applicable, the information to be provided to unit-holders in terms of regulation 20(1);
- (e) where the Maltese UCITS which is a feeder UCITS and the master UCITS have different custodians, the information-sharing agreement referred to in regulation 13 between the respective custodians; and
- (f) where the Maltese UCITS which is a feeder UCITS and the master UCITS have different auditors, the information-sharing agreement referred to in regulation 17(1) between their respective auditors.

(3) Where the master UCITS is established outside Malta, the Maltese UCITS which is a feeder UCITS shall also provide the competent authority with an attestation issued by the European regulatory authority of the master UCITS home Member State, that the master UCITS is a UCITS, which is not itself a feeder UCITS and does not hold units of a feeder UCITS.

(4) The master UCITS shall provide the Maltese UCITS which is a feeder UCITS with all documents and information necessary for the latter to meet the requirements laid down in these regulations:

Provided that where the master UCITS is a Maltese UCITS and the feeder UCITS is established in another Member State or EEA State, the master UCITS shall be obliged to provide the feeder UCITS with all documents and information necessary for the latter to satisfy the requirements of the UCITS Directive and the Implementing Directive.

(5) The documents referred to in this regulation shall be provided to the competent authority by the Maltese UCITS which is a feeder UCITS in English or in any other language approved by the competent authority.

Agreement between the feeder UCITS and the master UCITS

Agreement between the Maltese UCITS which is a feeder UCITS and the master UCITS.

8. (1) A Maltese UCITS which is a feeder UCITS shall enter into an exchange of information agreement with the master UCITS, hereinafter in these regulations referred to as ‘the written agreement’, which shall contain the information outlined in this regulation and in Schedule I.

(2) A Maltese UCITS which is a feeder UCITS shall not invest in the master UCITS in excess of the limit applicable for investment in other UCITS, as set in the risk diversification conditions applicable to Maltese UCITS as laid down in the Investment Services Rules, until the written agreement has become effective.

(3) A Maltese UCITS shall provide unit-holders with a copy of the written agreement, on request and free of charge.

(4) Where both the feeder UCITS and the master UCITS are Maltese UCITS, the written agreement between the master UCITS and the feeder UCITS shall provide that Maltese Law shall be the applicable law of the written agreement and that both parties shall be subject to the exclusive jurisdiction of the Courts of Malta.

(5) Where either the feeder UCITS or the master UCITS is a Maltese UCITS, the written agreement shall provide that the applicable law shall be either Maltese Law or the law of the Member State where the other UCITS is established, and that both parties agree to the exclusive jurisdiction of the courts of the Member State or EEA State whose law they have stipulated to be the applicable law to the agreement.

(6) Where both the feeder UCITS and the master UCITS are managed by the same management company, the written agreement may be replaced by internal conduct of business rules, which shall contain the information outlined in Schedule II.

General conditions applicable to feeder and master UCITS

Coordination of the timing of the net assets value calculation.

9. The master and the feeder UCITS shall take appropriate measures to coordinate the timing of their net asset value calculation and publication in order to avoid market timing in their units, preventing arbitrage opportunities.

Temporary suspension of the repurchase,

10. If a master UCITS temporarily suspends the repurchase, redemption or subscription of its units, whether on its own initiative or

redemption or subscription of units.

otherwise, each of its feeder UCITS is entitled to suspend the repurchase, redemption or subscription of its units within the same period of time as the master UCITS.

Liquidation.

11. (1) If a master UCITS is liquidated, the Maltese UCITS which is a feeder UCITS shall also be liquidated, unless the competent authority approves the investment of at least 85% of the assets of the Maltese UCITS which is a feeder UCITS in units of another master UCITS or approves the amendment of its fund rules or instruments of incorporation in order to enable the Maltese UCITS which is a feeder UCITS to convert into a UCITS which is not a feeder UCITS.

(2) The liquidation of a master UCITS shall take place not earlier than three months as from the date when the master UCITS has informed all of its unit-holders and the competent authority of the binding decision to liquidate.

Conditions applicable to a Maltese UCITS which is a feeder UCITS where the master UCITS is to be liquidated.

12. (1) Where the Maltese UCITS is a feeder UCITS which has investments in a master UCITS that is to be liquidated, the Maltese UCITS which is a feeder UCITS shall submit the following information to the competent authority not later than two months from the date on which the master UCITS has informed the Maltese UCITS of the binding decision to liquidate:

- (a) where the Maltese UCITS intends to invest at least 85% of its assets in units of another master UCITS in accordance with regulation 11(1):
 - i. the application for approval for that investment;
 - ii. the application for approval of the proposed amendments to its fund rules or instrument of incorporation;
 - iii. the amendments to its prospectus and its key investor information; and
 - iv. the other documents required pursuant to regulation 7(1) and 7(2).
- (b) where the Maltese UCITS intends to convert into a UCITS that is not a feeder UCITS in accordance with regulation 11(1):
 - i. its application for approval of the proposed amendments to its fund rules or instruments of incorporation; and
 - ii. the amendments to its prospectus and its key investor information;
- (c) where the Maltese UCITS has made a decision to wind up its operations and be liquidated, a notification of the UCITS' decision to this effect:

Provided that where the master UCITS has informed the Maltese UCITS which is a feeder UCITS of its binding decision to liquidate more than five months before the date at which the liquidation will

commence, the Maltese UCITS shall submit to the competent authority its application or notification in accordance with this subregulation, within three months before the date set for the liquidation of the master UCITS.

(2) Where the Maltese UCITS which is feeder UCITS has made a decision to wind up its operations and be liquidated, it shall inform its unit-holders of its decision without undue delay.

(3) Within 15 working days following the submission of complete and accurate documents as referred to in paragraphs (a) or (b) respectively of subregulation (1), the competent authority shall inform the Maltese UCITS which is a feeder UCITS whether or not it has granted the required approval.

(4) On receiving the competent authority's approval pursuant to subregulation 3, the Maltese UCITS which is a feeder UCITS shall inform the master UCITS about such approval, without undue delay. Where the approval is issued pursuant to regulation 12(1) (a), the Maltese UCITS which is a feeder UCITS shall take all the necessary measures to comply with the requirements of regulation 20 without undue delay.

(5) Where the payment of liquidation proceeds of the master UCITS is to be executed before the date on which the Maltese UCITS which is a feeder UCITS is to start to invest in either a different master UCITS pursuant to regulation 12(1)(a) or in accordance with new investment objectives and policy pursuant to regulation 12(1)(b), the competent authority shall grant approval subject to the following conditions:

(a) The Maltese UCITS which is a feeder UCITS shall receive the proceeds of the liquidation:

- (i) in cash; or
- (ii) some or all of the proceeds, as a transfer of assets in kind where the Maltese UCITS so wishes and where the agreement between the Maltese UCITS and master UCITS or the internal conduct of business rules and the binding decision to liquidate provide for the proceeds to be transferred in this manner;

(b) Any cash held or received in accordance with this subregulation may be reinvested only for the purpose of efficient cash management before the date on which the Maltese UCITS which is a feeder UCITS is to start to invest either in a different master UCITS or in accordance with its new investment objectives and policy:

Provided that where paragraph (a)(ii) applies, the Maltese UCITS which is a feeder UCITS may realise any part of the

assets transferred in kind for cash at any time.

**Conditions applicable to
Custodians and Auditors of
feeder and master UCITS**

Information-sharing agreement between custodians.

13. (1) If the master and the feeder UCITS have different custodians, such UCITS shall require their custodians to enter into an information-sharing agreement in order to ensure the fulfilment of each of their duties. Such information-sharing agreement shall contain the information outlined in Schedule III.

(2) Where the feeder UCITS and the master UCITS have entered into a written agreement in accordance with regulation 8(1), the information-sharing agreement between the respective custodians shall provide that the law of the Member State applying to that written agreement shall also apply to the information-sharing agreement between both custodians, which shall both agree to the exclusive jurisdiction of that particular Member State.

(3) Where the written agreement, in terms of regulation 8(1), between the feeder UCITS and the master UCITS has been replaced by internal conduct of business rules in accordance with regulation 8(7), the information-sharing agreement between the custodians of the master UCITS and the feeder UCITS shall provide that the law applying to the information-sharing agreement between both custodians shall be either that of the Member State in which the feeder UCITS is established or, where different, that of the Member State in which the master UCITS is established, and both custodians shall therein agree to the exclusive jurisdiction of the courts of the Member State whose law is applicable to the information-sharing agreement.

Investment in the master UCITS subject to the conclusion of the information-sharing agreement.

14. The feeder UCITS shall not invest in the units of the master UCITS until the information-sharing agreement referred to in regulation 13 becomes effective.

Lack of breach of confidentiality.

15. Notwithstanding the provisions of any other law, no obligation, including the duty of professional secrecy, to which a custodian is subject, shall be regarded as contravened by reason of its exchange of information in good faith in terms of these regulations and the information-sharing agreement. The custodian's actions in this regard shall not give rise to any liability on the part of such custodian or any person acting on its behalf.

Communication between the UCITS and the

16. The Maltese UCITS which is a feeder UCITS, shall be in charge of communicating to the custodian of the feeder UCITS any

Custodian. information about the master UCITS which is required for the completion of such custodian's duties.

Information-sharing agreement between auditors.

17. (1) When the master and the feeder UCITS have different auditors, such auditors shall enter into an information-sharing agreement in order to ensure the fulfilment of the duties of both auditors, including the arrangements taken to comply with the requirements of regulation 19. Such information-sharing agreement shall contain the information outlined in Schedule IV.

(2) Where the feeder UCITS and the master UCITS have concluded a written agreement in accordance with regulation 8(1), the information-sharing agreement between the respective auditors shall provide that the law of the Member State applicable to such written agreement shall also apply to the exchange of information agreement between both auditors and both auditors shall agree to the exclusive jurisdiction of that particular Member State.

(3) Where the written agreement in terms of regulation 8(1) between the feeder UCITS and the master UCITS has been replaced by internal conduct of business rules in accordance with regulation 8(7), the information-sharing agreement between the auditors of the master UCITS and the feeder UCITS shall provide that the law applying to such information-sharing agreement shall be either that of the Member State in which the feeder UCITS is established or, where different, that of the Member State in which the master UCITS is established, and both auditors shall therein agree to the exclusive jurisdiction of such applicable courts.

Information-sharing agreement between auditors as a prerequisite for feeder UCITS to invest in master UCITS.

18. The Maltese UCITS which is a feeder UCITS shall not invest in units of the master UCITS until the information-sharing agreement between auditors in accordance with regulation 17 has become effective.

Audit report

19. (1) In its audit report, the auditor of the Maltese UCITS which is a feeder UCITS shall take into account the audit report of the master UCITS. If the feeder and the master UCITS have different accounting years, the auditor of the master UCITS shall make an *ad hoc* report on the closing date of the feeder UCITS.

(2) The auditor of the Maltese UCITS which is a feeder UCITS shall, in particular, report on any irregularities revealed in the audit report of the master UCITS and on their impact on the Maltese feeder UCITS.

Conversion of UCITS

Conversion of
existing UCITS

20. (1) A Maltese UCITS which converts into a feeder UCITS or a Maltese UCITS which is a feeder UCITS of a different master UCITS which intends to invest into a master UCITS which is different from the one in which it already invests, Master shall provide the following information to its unit-holders:

- (a) A statement that the competent authority approved the investment of the Maltese UCITS which is a feeder UCITS in units of the master UCITS;
- (b) The key investor information concerning the feeder and the master UCITS;
- (c) The date when the Maltese UCITS being a feeder UCITS is to commence investing in the master UCITS or, if it has already invested therein, the date when its investment will exceed the limit applicable in terms of the risk diversification conditions applicable to Maltese UCITS as laid down in the Investment Services Rules;
- (d) A statement that the unit-holders have the right, exercisable within 30 days, to request the repurchase or redemption of their units without any charges other than those retained by the UCITS to cover disinvestment costs. Such right shall become effective from the moment the Maltese UCITS which is a feeder UCITS has provided the information referred to in this subregulation:

Provided that such information shall be provided to the unit-holders at least 30 days before the date referred to in paragraph (c) above.

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(2) In the event that the Maltese UCITS which is a feeder UCITS has passported to another Member State in terms of Investment Services Act (Authorisation and Passporting of UCITS) Regulations 2011, the information referred to in subregulation 1 shall be provided in the English language or in a language approved by the competent authority. The Maltese UCITS shall be responsible for producing the translation, which shall faithfully reflect the content of the original.

(3) The Maltese UCITS which is a feeder UCITS shall not invest into the units of the given master UCITS in excess of the limit established in the risk diversification conditions applicable to Maltese UCITS as laid down in the Investment Services Rules, issued by the competent authority in terms of the Act, before the lapse of 30 days.

Obligations of feeder UCITS and Master UCITS and of the Competent Authority

Obligations of the feeder UCITS.

21. (1) The Maltese UCITS which is a feeder UCITS shall monitor effectively the activity of the master UCITS. In performing that obligation, the feeder UCITS may rely on information and documents received from the master UCITS, custodian and auditor, unless there is reason to doubt their accuracy.

(2) Where, in connection with an investment in the units of the master UCITS, a distribution fee, commission or other monetary benefit is received by the Maltese UCITS which is a feeder UCITS, or any person acting on its behalf, the fee, commission or other monetary benefit shall be paid into the assets of the feeder UCITS.

Obligations of the master UCITS and of the competent authority.

22. (1) The Maltese UCITS which is a master UCITS shall immediately inform the competent authority of the identity of each feeder UCITS which invests in its units. If the feeder UCITS is established in a Member State or EEA State other than Malta, the competent authority shall immediately inform the European regulatory authority of the feeder UCITS of such investment.

(2) The Maltese UCITS which is a master UCITS shall not charge subscription or redemption fees for the investment of the feeder UCITS into its units or the divestment thereof.

(3) The Maltese UCITS which is a master UCITS shall ensure the timely availability of all information that is required in accordance with these regulations, the fund rules or the instruments of incorporation, to the feeder UCITS, and to the competent authority the custodian and the auditor of the feeder UCITS.

(4) If the master UCITS and the feeder UCITS are both Maltese UCITS, the competent authority shall immediately inform the feeder UCITS of any decision, measure, observation of non-compliance with the conditions of these regulations or of any other information reported in terms of article 18 of the Investment Services Act with regards to the master UCITS, custodian or auditor.

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(5) Where the master UCITS is a Maltese UCITS and the feeder UCITS is established in another Member State, the competent authority shall immediately communicate any decision, measure, observation of non-compliance with the conditions of these regulations or other information reported in terms of article 18 of the Investment Services Act with regards to the master UCITS, custodian or auditor, to the European regulatory authority of the feeder UCITS:

Provided that where the feeder UCITS is a Maltese UCITS and the master UCITS is established in another Member State, the competent

authority shall, immediately communicate to the feeder UCITS any information received from the European regulatory authority of the master UCITS in terms of this subregulation.

SCHEDULE I
(Regulation 7)
Content of the written agreement between the Maltese UCITS
which is a feeder UCITS and the master UCITS

The agreement referred to in paragraph (1) of regulation 8 of these regulations shall include the information included in this Schedule.

1. Access to information

The agreement shall include the following with regards to the access to information:

- (a) The timing and the manner in which the master UCITS shall provide the Maltese UCITS which is a feeder UCITS with a copy of its fund rules or instruments of incorporation, prospectus and key investor information and any amendments thereof;
- (b) The timing and the manner in which the master UCITS shall inform the Maltese UCITS which is a feeder UCITS of a delegation of investment management and risk management functions to third parties;
- (c) Where applicable the timing and the manner in which the master UCITS shall provide the Maltese UCITS which is a feeder UCITS with internal operational documents, such as its risk management process and its compliance reports;
- (d) The timing and manner in which the master UCITS shall provide the Maltese UCITS which is a feeder UCITS with information of any breaches by the master UCITS of legislation to which it is subject, the fund rules or instruments of incorporation and the agreement referred to in regulation 8 of the these regulations;
- (e) Where the Maltese UCITS which is a feeder UCITS uses financial derivative instruments for hedging purposes, the timing and the manner in which the master UCITS shall provide the Maltese UCITS with information about its actual exposure to financial derivative instruments to enable the Maltese UCITS to calculate its own global exposure as required in terms of regulation 4(2) of these regulations;
- (f) A statement that the master UCITS shall inform the Maltese UCITS which is a feeder UCITS of any other information-sharing arrangements entered into with third parties and where applicable, how and when the master UCITS shall make those other information-sharing arrangements available to the Maltese UCITS.

2. Basis for investment and divestment by the Maltese UCITS which is a feeder UCITS

The agreement shall include the following with regards to the basis for investment and divestment by the feeder UCITS:

- (a) a statement indicating the share classes of the master UCITS which are available for investment by the Maltese UCITS which is a feeder UCITS;
- (b) the charges and expenses to be borne by the Maltese UCITS which is a feeder UCITS, and details of any rebate or retrocession of charges or expenses by the master UCITS;
- (c) if applicable, the terms on which any initial or subsequent transfer of assets in kind which may be made from the Maltese UCITS which is a feeder UCITS to the master UCITS.

3. Standard Dealing Arrangements

The agreement shall include the following with regards to standard dealing arrangements:

- (a) coordination of the frequency and timing of the net asset value calculation process and the publication of prices of units;
- (b) coordination of transmission of dealing orders by the Maltese UCITS which is a feeder UCITS, including where applicable the role of transfer agents or any other third party;
- (c) where applicable, any arrangements necessary to take account of the fact that either or both UCITS are listed or traded on a secondary market;
- (d) where necessary other appropriate measures to ensure compliance with regulation 9;
- (e) where the units of the Maltese UCITS which is a feeder UCITS and the master UCITS are denominated in different currencies the basis for conversion of dealing orders;
- (f) settlement cycles and payment details for purchase or subscriptions and repurchases or redemptions of units of the master UCITS including, where agreed between the parties, the terms on which the master UCITS may settle redemption requests by a transfer of assets in kind to the Maltese UCITS which is a feeder UCITS;
- (g) procedures to ensure enquires and complaints from unit-holders are handled appropriately;
- (h) where the fund rules or instruments of incorporation and prospectus of the master UCITS give it certain rights or powers in relation to unit-holders,

and the master UCITS chooses to limit or forego the exercise of all or any such rights and powers in relation to the Maltese UCITS which is a feeder UCITS, a statement of the terms on which it does so.

4. Events affecting dealing arrangements

The agreement shall include the following with regard to events affecting dealing arrangements:

- (a) the manner and timing of a notification by either UCITS of the temporary suspension and the resumption of the repurchase, redemption, purchase or subscription of units of that UCITS;
- (b) arrangements for notifying and resolving pricing errors in the master UCITS.

5. Standard arrangements for the audit report

The agreement shall include the following with regards to standard arrangements for the audit report:

- (a) where the Maltese UCITS which is a feeder UCITS and the master UCITS have the same accounting years, the coordination of the production of their periodic reports;
- (b) where the Maltese UCITS which is a feeder UCITS and the master UCITS have different accounting years, arrangements for the Maltese UCITS which is a feeder UCITS to obtain any necessary information from the master UCITS to enable it to produce its periodic reports on time and which ensure that the auditor of the master UCITS is in a position to produce an ad hoc report on the closing date of the Maltese UCITS which is a feeder UCITS in accordance with regulation 19(1).

6. Changes to standing arrangements

The agreement shall include the following with regards to changes to standing arrangements:

- (a) the manner and timing of a notice to be given by the master UCITS of proposed and effective amendments to its fund rules or instruments of incorporation, prospectus and key investor information, if these details differ from the standard arrangements for notification of unit-holders laid down in the master UCITS fund rules, instruments of incorporation or prospectus;
- (b) the manner and timing of notice by the master UCITS of a planned or proposed liquidation, merger or division;
- (c) the manner and timing of notice by either UCITS that it has ceased or will cease to meet the qualifying conditions to be a feeder UCITS or a master UCITS respectively;

(d) the manner and timing of notice by either UCITS that it intends to replace its management company, its custodian, its auditor or any third party which is mandated to carry out investment management or risk management functions;

(e) the manner and timing of notice of other changes to standing arrangements that the master UCITS undertakes to provide.

SCHEDULE III (Regulation 12)

Content of the information-sharing agreement between the Custodians

The agreement referred to in regulation 13(1) shall include the following information:

- (a) the identification of the documents and categories of information which are to be routinely shared between the custodians, and the manner in which such information is to be shared;
- (b) the manner and timing including any applicable deadlines, for the transmission of information by the custodian of the master UCITS to the custodian of the feeder UCITS;
- (c) the coordination of the involvement of both custodians to the extent appropriate in view of their respective duties under national law, in relation to operational matters, including:
 - i.) the procedure for calculating the net asset value of each UCITS, including any measures appropriate to protect against the activities of market timing in accordance with regulation 9 of these regulations;
 - ii.) the processing of instructions by the Maltese UCITS which is a feeder UCITS to purchase, subscribe or request the repurchase or redemption of units in the master UCITS, and the settlement of such transactions, including any arrangement to transfer assets in kind;
- (d) the coordination of accounting year-end procedures;
- (e) the details of breaches by the master UCITS of the law and the fund rules or instrument of incorporation which shall be provided by the custodian of the master UCITS to the custodian of the feeder UCITS and the manner and timing of this exchange of information;
- (f) the procedure for handling ad hoc requests for assistance from one custodian to the other;
- (g) identification of a particular contingent events which ought to be notified by one custodian to the other on an ad hoc basis, and the manner and timing in which this will be done.

SCHEDULE IV

(Regulation 17)

Content of the information-sharing agreement between Auditors

1. The agreement referred to in regulation 17(1) of these regulations shall include the following information:
 - (a) the identification of the documents and categories of information which are to be routinely shared between both auditors;
 - (b) whether the information or documents referred to in point (a) are to be provided by one auditor to the other or made available upon request;
 - (c) the manner and timing, including any applicable deadlines, of the transmission of information by the auditor of the master UCITS to the auditor of the Maltese UCITS which is a feeder UCITS;
 - (d) the coordination of the involvement of each auditor in the accounting year-end procedures for the respective UCITS;
 - (e) identification of matters that shall be treated as irregularities disclosed in the audit report of the auditor of the master UCITS for the purposes of regulation 19(1) and (2);
 - (f) the manner and timing for handling ad hoc requests for assistance from one auditor to the other, including a request for further information on irregularities disclosed in the audit report of the audit of the master UCITS.
2. The information-sharing agreement shall also include provisions on the preparation of the audit reports referred to in these regulations and the manner and timing for the provision of the audit report on the master UCITS and drafts thereof to the auditor of the feeder UCITS.
3. Where the feeder UCITS and the master UCITS have different accounting year-end dates, the exchange of information agreement shall include the manner and timing by which the auditor of the master UCITS is to make the ad hoc report required in terms of these regulations and to provide it and drafts thereof to the auditor of the feeder UCITS.

Prime Minister

**Chairman
Malta Financial Services Authority**

**Minister of Finance, the Economy and
Investment**

L.N. ___ of 2011

**INVESTMENT SERVICES ACT
(CAP. 370)**

Investment Services Act (money market funds) Regulations, 2011

In exercise of the powers conferred by article 12 of the Investment Services Act, the Minister of Finance, the Economy and Investment, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Preliminary

Citation,
commencem
ent and
scope.

1. (1) The title of these regulations is the Investment Services Act (money market funds) Regulations, 2011.

(2) These regulations stipulate the requirements applicable to collective investment schemes licensed in terms of the Act and labelled or marketed as money market funds as herein defined.

(3) These regulations shall not apply to collective investment schemes which are not subject to risk-spreading requirements prescribed in terms of their licence conditions.

(4) These regulations shall come into force on the 1 July 2011.

Interpretation
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2. (1) In these regulations, unless the context otherwise requires -

“Act” means the Investment Services Act;

“interest rate reset date” means the date on which the calculation period of interest on the security starts to run anew;

“investment company” shall be construed as

referring to a collective investment scheme incorporated in the form of a limited liability company or a limited partnership;

“money market financial instruments” means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment;

“Maltese money market fund” means a collective investment scheme licensed by the competent authority in terms of the Act which is a Short-Term Money Market Fund or a Money Market Fund as herein defined, whose primary investment objective is to maintain the principal of the fund and which aims to provide a return in line with money market rates;

“Money Market Fund” means a fund having a longer weighted average maturity and weighted average life than a Short-Term Money Market Fund as herein defined and which complies with regulations 14 to 19 of these regulations.

“money market rates” means the interest rates which are generally paid on money market financial instruments;

“net asset value” means the value of the fund’s assets after having subtracted all its liabilities;

“non-base currency financial instrument” means a financial instrument denominated in a currency other than the base currency of the fund;

"regulated market" means a multilateral system operated by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments in the system within the meaning of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments as defined in the Act;

“Short-Term Money Market Fund” means a money market fund which operates a very short weighted average maturity and weighted average life and which complies with regulations 9 to 13 of these regulations;

“structured financial instrument” means a financial instrument or other assets resulting from a securitisation transaction or scheme;

“weighted average life” or “WAL” means the weighted average of the remaining life (maturity) of each security held in a fund, meaning the time until the principal is repaid in full (disregarding interest and not discounting);

“weighted average maturity” or “WAM” means a measure of the average length of time to maturity of all of the underlying securities in the fund weighted to reflect the relative holdings in each instrument, assuming that the maturity of a floating rate instrument is the time remaining until the next interest rate reset to the money market rate.

(2) Words and expressions which are also used in the Act shall have the same meaning as in the Act.

General Provisions

Identifying a Maltese money market fund. 3. (1) A Maltese money market fund shall comply with the Act, these regulations and any applicable Investment Services Rules issued by the competent authority.

(2) A Maltese money market fund shall provide appropriate information to investors on the risk and reward profile of the fund so as to enable them to identify any specific risks linked to the investment strategy of the fund.

L.N. 392 of 2005 (3) A Maltese money market fund shall indicate, in its prospectus drawn up in accordance with the Investment Services Act (Prospectus of Collective Investment Schemes) Regulations, 2005, whether it is a Short-Term Money Market Fund or a Money Market Fund.

L.N. of 2011 (4) Where the Maltese money market fund is a Maltese UCITS as defined in the Investment Services Act (Authorisation and Passporting of UCITS) Regulations, 2011, it shall indicate whether it is a Short-Term Money Market Fund or a Money Market Fund in its key investor information document drawn up in accordance with the Investment Services Act (Key Investor Information) Regulations, 2011.

General requirements for Maltese money market funds under these 4. (1) A Maltese money market fund shall invest in money market financial instruments which comply with the criteria laid down in the Schedule to these regulations, or deposits with credit institutions.

Regulations.

(2) The money market financial instruments in which a Maltese money market fund invests shall be of high quality, as determined on the basis of, *inter alia*, the following factors:

(a) the credit worthiness of the financial instrument shall be that of a money market financial instrument of high quality;

(b) the nature of the asset class represented by the money market financial instrument;

(c) for structured financial instruments, the operational and counterparty risk inherent within the structured financial transaction; and

(d) the liquidity profile of the money market financial instrument.

(3) For the purposes of paragraph (a) of sub-regulation (2), a money market instrument shall not be deemed to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument or, if the instrument is not rated, it is of an equivalent quality as determined by the management company's internal rating process.

5. (1) A Maltese money market fund shall have no direct or indirect exposure to equity or commodities, including by virtue of derivatives, and shall only use derivatives in line with the fund's money market investment strategy.

(2) Where derivatives which give exposure to foreign exchange are used in accordance with sub-regulation (1), such derivatives shall only be used for hedging purposes;

(3) A Maltese money market fund may invest in non-base currency financial instruments, but shall ensure that the currency exposure is fully hedged.

6. (1) A Maltese money market fund shall carry out and issue daily net asset value and price calculations, and provide for daily subscription and redemption of units.

(2) Where a Maltese money market fund is marketed solely as an employee savings scheme to a specific category of investors and is subject to divestment restrictions, it may provide weekly subscription and redemption of units.

7.(1) When calculating the weighted average life for

securities, including structured financial instruments, a Maltese money market fund shall base the maturity calculation on the legal residual maturity of the financial instruments.

(2) Where a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity of the financial instrument, subject to the following conditions:

(a) the put option may be freely exercised by the management company at its exercise date;

(b) the strike price of the put option shall remain close to the expected value of the financial instrument at the next exercise date; and

(c) the investment strategy of the Maltese money market fund gives an indication that there is a high probability of the option being exercised at the next exercise date.

8. When calculating its weighted average life, a Maltese money market fund shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.

Short Term Money Market Fund

9. In addition to the general requirements set out in regulations 3 to 8, a Short-Term Money Market Fund shall also comply with the following regulations.

10. A Short-Term Money Market Fund shall only invest in securities with a residual maturity until the legal redemption date which is less than or equal to three hundred and ninety-seven days.

11. A Short-Term Money Market Fund shall have a portfolio of investments with a weighted average maturity of not more than sixty days and a weighted average life of not more than one hundred and twenty days, and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.

12. A Short-Term Money Market Fund shall only invest in other collective investment schemes which are labelled or marketed as Short-Term Money Market Funds.

13. A Short-Term Money Market Fund shall have either a constant or a fluctuating net asset value.

Requirements for
Short Term
Money Market
Funds.

Money Market Fund

Requirements for
a Money Market
Fund.

14. In addition to the general requirements set out in regulations 3 to 8, a Money Market Fund shall also comply with the following regulations.

15. (1) A Money Market Fund shall only invest in securities with a residual maturity until the legal redemption date of less than or equal to two years:

Provided that, the time remaining until the next interest rate reset date shall be less than or equal to three hundred ninety-seven days.

(2) Floating rate securities shall reset to a money market rate or index.

16. A Money Market Fund shall have a portfolio of investments which has a weighted average maturity of not more than six months and a weighted average life of not more than twelve months and shall take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques for both its weighted average maturity and weighted average life calculations.

17. A Money Market Fund shall only invest in other collective investment schemes which are labelled or marketed as Short-Term Money Market Funds or Money Market Funds.

18. Without prejudice to regulation 4(2)(a), a Money Market Fund may invest in money market financial instruments issued or guaranteed by a central regional or local authority or central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank and which are at least of investment grade quality.

19. A Money Market Fund shall have a fluctuating net asset value.

Applicability

Applicability.

20. (1) Funds labelled or marketed as Maltese money market funds which are created on or after the 1 July 2011 shall comply with these regulations on the said date.

(2) Funds labelled or marketed as Maltese money market funds which are already licensed prior to the 1 July 2011 shall comply with these regulations as follows:

(a) by the 1 July 2011 in respect of any new investment made on or after the said date;

(b) by not later than the 31 December 2011 in respect of all investments acquired prior to the 1 July 2011.

Schedule

(Regulation 4)

A Maltese money market fund shall only invest in the following types of money market financial instruments:

- (a) Money market financial instruments admitted to or dealt in on a Maltese regulated market which has been granted authorisation in terms of the Financial Markets Act and which appears on the list of regulated markets prepared and published by the European Commission;
- (b) Money market financial instruments dealt in on another regulated market in another Member State or EEA State, which operates regularly and is recognised and open to the public and which appears on the list of regulated markets prepared and published by the European Commission;
- (c) Money market financial instruments admitted to official listing on a stock exchange in a third country or dealt in on another regulated market in a third country which operates regularly and is recognised and open to the public provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the instruments of incorporation of the investment company;
- (d) Money market financial instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the Community or the European Investment Bank, a third country or by a public international body to which one or more Member States belong;
- (e) Money market financial instruments issued by an undertaking any securities of which are dealt in on regulated markets referred to in points (a), (b) or (c);
- (f) Money market financial instruments issued or guaranteed by an establishment subject to prudential supervision, in accordance with criteria defined by Community law, or by an establishment which is subject to and complies with prudential rules considered by the competent authorities to be at least as stringent as those laid down by Community law;
- (g) Money market financial instruments issued by other bodies belonging to the categories approved by the competent authority of the home Member State provided that investments in such instruments are subject to investor protection

equivalent to that laid down in points (d), (e) or (f) and provided that the issuer is a company whose capital and reserves amount to at least € 10, 000, 000 and which presents and publishes its annual accounts in accordance with Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies, and is an entity which, within a group of companies which includes one or several listed companies, is dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.