

# MFSA Newsletter

July 2013

MFSA  
MALTA FINANCIAL SERVICES AUTHORITY

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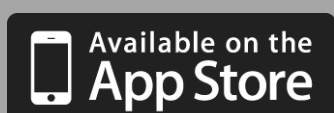
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## Prime Minister visits MFSA

Prime Minister Joseph Muscat stated that the Government will be approaching the financial services sector with continuity that safeguards stability while exploring ways to branch out into new markets. Dr. Muscat was speaking during a visit at the Malta Financial Services Authority (MFSA) accompanied by Minister for Finance Prof. Edward Scicluna.

The Prime Minister and Minister for Finance held a brief meeting with the MFSA Board of Governors, and subsequently addressed MFSA staff members.

During his address, Prime Minister Joseph Muscat emphasised that Government is looking towards the financial services sector as a growth sector, and said that the Government's approach to the sector and the MFSA would be one of continuity in the interest of safeguarding stability and investment. "This is a mature European democracy that, in the midst of a financial storm, stands as an oasis of stability," Dr. Muscat said, noting that one of the reasons behind the success of the financial services sector is the bipartisan parliamentary approval that the legal framework governing the sector enjoyed.



Photo - DOI - Reuben Piscopo

*Prime Minister and Minister for Finance meet the MFSA Board of Governors*

"Every law that passed through parliament related to the financial services sector did so unanimous support and approval. I augur that this unanimous support will allow the financial services sector to keep growing."

Dr. Muscat noted that the prospects for the financial services sector are positive; pointing out that Government is proactively exploring new and innovative ideas regarding which new markets can be explored. "We must remain optimistic and positive. We must remain open to criticism that is being levelled at us, while at the same time we must keep firmly underlining that Malta is a reputable jurisdiction," Dr. Muscat said.

The Prime Minister emphasised that Malta did well to retain its standards, noting that while other jurisdictions were being overwhelmed by crises over the past few months, it would have been all too easy to open for Malta to open its doors. "This is a

country where operators must be reputable. We have our standards, and we should not lower or undermine them to accommodate operators, but it is operators that must raise their standards to meet ours,” Dr. Muscat stressed.

“With four months’ worth of hindsight, already we are seeing the result of that firmness. Even when speaking on a political level with other EU Financial Ministers, we use this example to show that our country is different. We retained our standards, and it is paying off already.”

During his own address, Finance Minister Prof. Edward Scicluna said that the MFSA should be proud of its crucial role as a micro-prudential supervisory entity, noting that despite EU-wide preparations, a financial crisis still took the Eurozone by surprise. He noted that the political fallout, both on national and European levels, created a reaction for more regulation. “Tax payers do not want to pay for the mistakes made by financial institutions, which, in an irresponsible manner, brought on this crisis themselves.”

Prof. Scicluna noted that this has led to a situation where politicians and legislators are being called upon to enact more stringent laws governing and regulating financial institutions than before. “As a result, every risky aspect of financial activity is being regulated.” Prof. Scicluna stressed that this is important because it is intrinsically linked to the financial stability of the country.

“Financial stability is something intangible and very often is not a leading concern among the population, if lost it can nevertheless lead to considerable financial and economic hardship which can afflict a country for many years.”

Prof. Scicluna also announced that the Government intends to, following consultation with the Central Bank and the MFSA, enter into a Memorandum of Understanding which will allow the three entities to jointly monitor the country’s financial stability, and co-coordinate their activities while ensuring that each entity respects its mandate.

“Any shift that could risk affecting or undermining Malta’s financial and economic stability will be scrutinised closely, and any action that is required will take place in a decisive and timely manner.”

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## IMF Executive Board Concludes 2013 in-depth review of Malta’s economic and financial standing

In a further in-depth review of Malta’s economic and financial standing, the International Monetary Fund (IMF), has once again confirmed the strength of the financial services sector in Malta, while expressing a generally positive view of Malta’s economic performance.

In its [Report](#), the IMF noted that “the banking system is sound and that risks from its large international bank segment appear contained because of limited balance sheet exposures to the domestic economy.” Nonetheless, it has called for stronger efforts to monitor developments in all banks, given the size of the banking sector relative to GDP. The Fund also welcomed the progress in strengthening the regulatory framework for banks and the recent establishment of the Joint Financial Stability Board. It encouraged additional steps to shore up the resilience, including by tightening rules on loan loss provisioning and boosting the funding of deposit insurance.



The performance of Maltese banks has been described by the IMF as “satisfactory, despite turbulence in the euro area”. All banks report adequate capitalization, liquidity, and profitability and are well positioned to transition to the Basel III regime. In contrast to many European countries, domestic banks’ deposits and credit to the private sector continued to increase in 2012, albeit at a slower pace than in 2010-11.

The Report commented that “the large international banking segment and smaller group of non-core domestic banks have limited balance sheet exposures to the Maltese economy, but recent events in Europe have heightened perceptions about risks of hosting a large banking segment in a small country. In response, the authorities have strengthened supervision and monitoring of banks’ liquidity positions.

In general terms, the IMF commented that “Malta has shown remarkable resilience in the face of a major crisis in Europe. Since the beginning of the crisis, the average growth of the Maltese economy has been one of the best in the euro area and the unemployment rate remains one of the lowest. This resilience was underpinned by robust service sector export growth and a sound banking sector. As a result, the current account balance has improved gradually in recent years, turning into surplus in 2012. However, economic growth slowed in 2012 and remains below potential, reflecting a weak external environment and subdued domestic demand. The Fund however warned that a protracted period of slower growth in Europe or re-emergence of euro area financial stress would negatively affect the Maltese economy.

The IMF’s Executive Directors commended Malta’s resilience through the global and European crises, which has been underpinned by solid macroeconomic and financial fundamentals. Nevertheless, with the growth outlook vulnerable to external and fiscal risks, Directors encouraged the authorities to continue to pursue prudent policies and deepen structural reforms.

The Hon. Edward Scicluna, Minister for Finance welcomed the IMF’s conclusions on Malta’s Country Report. “I am especially pleased to note that the IMF’s Executive Directors have reconfirmed the resilience of our economy, underpinned by solid macroeconomic and financial fundamentals, and the underlining soundness of our banking system,” Prof. Scicluna said.

### *Standard and Poor’s maintain credit rating, give stable outlook to Maltese economy*

The IMF’s conclusions were reflected by a review carried out by the international credit rating agency Standard and Poor’s., which re-affirmed Malta’s long- and short-term sovereign credit ratings at 'BBB+/A-2', with a stable outlook.



In its conclusions S&P noted that “the ratings are supported by our view of Malta's relatively strong institutional and governance effectiveness, and its prosperous economy. A sizable government debt burden and external imbalances constrain the ratings, however.”

In its economic review, S&P notes that Malta's growth performance has been one of the strongest in the European Economic and Monetary Union (eurozone) with real GDP per capita averaging just below 1% annually between 2007 and 2012. Manufacturing and services exports have been key drivers of the economy.

Tackling the financial services sector specifically, the credit rating agency describes Malta's domestic financial system as stable.

“The presence of internationally oriented banks poses little threat to the government by way of contingent liabilities; these institutions have little or no interaction with the domestic economy.” The report does point out the presence of institutions which are partly funded by domestic deposits (that fall under the deposit compensation scheme) and short-term foreign lines, but with no domestic assets, noting that these could become increasingly systemically important. However, Standard and Poor’s highlight the fact that banks in this category have assets of 77% of GDP, with asset quality that appears stable.

## **Implications of AIFMD transposition discussed at MFSA Conference**

On 27th June 2013, the MFSA organised a half-day conference by way of industry update on the transposition and implementation process of the Alternative Investment Fund Managers Directive (hereinafter referred to as ‘AIFMD’). The conference offered the audience both the international and local flavours of the implications related to the transposition of the AIFMD together with the possibility of raising any issues of concern in relation to this new Directive.

Prof. J. Bannister, MFSA Chairman, opened the conference. He explained that the Authority set up an ad hoc transposition committee which met regularly to discuss issues relating to the AIFMD. Furthermore and most important of all, Prof. Bannister announced the Authority’s readiness in accepting applications for authorisation of alternative investment fund managers.

The presentations by Fabrice Demarigny and Frédéric Hizette, from Mazars Paris and Luxembourg respectively, followed. Mr Demarigny walked the audience through the highlights and timelines related the AIFMD. In particular, reference was made to the key provisions of the AIFMD including the definition of alternative investment fund and alternative investment fund manager including the authorisation requirements, the delegation provisions, remuneration, risk and liquidity management provisions and the passporting provisions.



*MFSA Chairman Prof J.V. Bannister addressing the attendees*

On the other hand, Mr. Frédéric Hizette tackled provisions of the Level 2 Delegated Regulation which supplements the provisions of the AIFMD. Mr. Hizette focussed mainly on the most important four issues stemming from the Delegated Regulation namely delegation issues and the letter-box entity, the custodian agreement and the concept of strict liability, remuneration, and organisational requirements applicable to alternative investment fund managers.

Mr. Christophe Clerc from Pinsent Masons provided further detail on the concepts of alternative investment fund and alternative investment fund manager. In particular, he provided the audience with an exhaustive explanation of the de minimis thresholds and the method of computation of these thresholds.

Mr. Christopher Buttigieg, Deputy Director at MFSA's Securities and Markets Supervision Unit, provided audience with an outline of the transposition process of the AIFMD by the MFSA. Mr. Buttigieg maintained that when the MFSA embarked on the transposition process, the Authority's main objectives were mainly the following:

- (1) providing a correct transposition and implementation of the AIFMD and subsidiary legislation;
- (2) ensuring a smooth transition from the current regime for the regulation of Non-UCITS fund managers and schemes to the AIFMD regime; and
- (3) providing a new framework for the licencing of AIFs while retaining the existing PIF regime as an alternative framework that may be used in compliance with the AIFMD.

Mr. Buttigieg also provided an outline of the implementing Regulations which have been issued in terms of the Investment Services Act as a result of the transposition process. The audience were also provided with an overview of the new Investment Services Rules for Alternative Investment Funds and the main changes to the existing Investment Services Rulebooks. Furthermore, Mr. Buttigieg announced the stance which is being adopted by the Authority in relation to the passporting of MiFID ancillary activities outlined in the AIFMD and in relation to the implementation of the Remuneration Guidelines issued by ESMA. In particular with regards to the latter, Mr. Buttigieg announced that the Authority would not be applying these Guidelines at the level of the delegate.

During the meeting the MFSA also launched a user-friendly website dedicated to AIFMD at following link: <http://www.mfsa.com.mt/pages/viewcontent.aspx?id=506>.

## MFSA launches AIFMD guides

The MFSA has launched two guides relating to the implementation of the Alternative Investment Fund Managers Directive (the "AIFMD") – A Guide to Establishing an Alternative Investment Fund Manager in Malta and Alternative Investment Fund Manager Directive – The Passporting and Third Country Framework.

The "Guide to Establishing an Alternative Investment Fund Manager in Malta" outlines the authorisation process and the operating conditions applicable to alternative investment fund managers ("AIFMs", including de minimis AIFMs) seeking to be licensed by the MFSA in terms of the AIFMD. The Guide also includes detail on the entity appointed as Custodian to the alternative investment funds ("AIFs") under management and a section on the transitional provisions that will be applied in the implementation of the AIFMD.

The guide entitled "Alternative Investment Fund Manager – The Passporting and Third Country Framework" describes the manner in which the EU passport will be applied both in relation to EU managers and in relation to third country managers

wishing to market AIFs in the EU. For ease of reference, this guide successively considers each of the various marketing scenarios that may arise within the AIFMD framework, providing concise guidance on the regime applicable to each scenario. Detail is also provided on the manner in which third country AIFMs are to determine their Member State of Reference.

The guides are available on the MFSA website and may be accessed either via the website's dedicated AIFMD section or by following the link: <http://mfsa.com.mt/pages/viewcontent.aspx?id=510>

Meanwhile, the MFSA has also sponsored an article on Hedgeweek's special publication Guide to Setting Up Alternative Investment Funds. A copy of this edition may be download here: [Setting up Alternative Investment Funds 2013](#).

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## **MFSA issues Circular on investment services provided in relation to binary options**

Following clarification by the European Commission of the relevant issues in terms of the Markets in Financial Instruments Directive, 2004/39/EC, (MiFID), it has been determined that binary options fall within scope of the Directive.

In the light of this interpretation and after taking into consideration the manner in which binary options are classified and regulated in other EU Member States, the Malta Financial Services Authority advised that binary options are considered to be instruments falling within the parameters of the Second Schedule of the Investment Services Act (Cap. 370) which is itself modelled on MiFID.



Accordingly, the MFSA informed that any person carrying out or intending to carry out in Malta any investment service in relation to binary options requires a license in terms of the Investment Services Act.

For the avoidance of doubt, binary options are contracts based on the direction the price an underlying asset will take within a specified time frame. Binary options are therefore a type of derivative contract with only two possible outcomes that depend on whether the forecast price is correct or incorrect.

Further information on the regulatory framework applicable with regards to the provision of investment services in Malta may be found in the Guide to Investment Services which is available for download from the Publications Section on the Authority's website [[www.mfsa.com.mt](http://www.mfsa.com.mt)].

Any queries should be addressed to The Director, Authorisation Unit, by email on [au@mfsa.com.mt](mailto:au@mfsa.com.mt).

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## **MFSA issues Circular on a new investment fund framework**

On the 28th June, 2013, the European Commission proposed a new investment fund framework designed for investors who want to invest money into companies and projects for the long term. These private European Long-Term Investment Funds (ELTIFs) would only invest in businesses that need money to be committed to them for long periods of time.

The ELTIFs would be available to all types of investor across Europe subject to certain requirements set out in EU law. The ELTIFs are allowed to invest in certain defined types of long-term assets and firms, have to spread their money to reduce risks and have to provide certain stipulated information to investors. Any ELTIF manager would also have to comply fully with the requirements of the Alternative Investment Fund Managers Directive ("the AIFMD") to provide adequate protection for its investors.

According to the proposal, ELTIFs would have to meet a set of common rules so that they:

- Always have a depositary to keep assets safe;
- Comply with the rules on spreading assets to prevent too much money going into one asset;
- Only use derivatives to manage currency risks in relation to the assets they hold, and not for speculation; and
- Obey limits on the amount they can borrow.

ELTIFs would invest in illiquid assets which are difficult to buy and sell. In addition, firms need to be confident the money invested in them will be committed for as long as they have told investors they will need it. Therefore, investors will only be able to withdraw money after the specified end date of their investment, which must be clearly disclosed upfront.

The proposal is in the legal form of a regulation, which is directly applicable to EU Member States.

More information about the proposal can be viewed on the following website: [http://europa.eu/rapid/press-release\\_IP-13-605\\_en.htm](http://europa.eu/rapid/press-release_IP-13-605_en.htm).

For more information on the above, kindly contact Mr Christopher Buttigieg, Deputy Director, Securities and Markets Supervision Unit [email: [cbuttigieg@mfsa.com.mt](mailto:cbuttigieg@mfsa.com.mt), Tel: 25485229] or Mr Christopher Micallef, Analyst, Securities and Markets Supervision Unit [email: [cmicallef@mfsa.com.mt](mailto:cmicallef@mfsa.com.mt), Tel: 25485381]

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## Industry Update

### *The European Markets Infrastructure Regulation (EMIR)*

On the 4<sup>th</sup> of July 2012, the European Parliament and the Council adopted the European Markets Infrastructure Regulation ('EMIR') which requires:

- i. All derivative<sup>[1]</sup> contracts to be reported to an authorised or recognised trade repository ('**Reporting Obligation**'); and
- ii. Certain classes of OTC Derivative contracts entered into by Financial Counterparties and Non-Financial Counterparties to be centrally cleared through an authorised or recognised Central Counterparty ('**Clearing Obligation**'); and
- iii. Counterparties to apply certain risk mitigation measures when entering into non-cleared OTC Derivative contracts ('**Risk Mitigation Techniques**').

The aim of this document is to provide the industry with an outline of what is required from Financial Counterparties and Non-Financial Counterparties under EMIR. This circular forms part of a series of circulars already issued by the MFSA, which can be viewed through the following [link](#).

#### **What are Financial Counterparties and Non-Financial Counterparties?**

A Financial Counterparty ('**FC**') is that counterparty to a transaction, which is either: an investment firm, A credit institution, An insurance undertaking, An assurance undertaking, A reinsurance undertaking, a UCITS (and where relevant, its management company), an institution for occupational retirement provision, or an alternative investment fund managed by Alternative Investment Fund Managers ('AIFM's).

A Non-Financial Counterparty ('**NFC**') is an undertaking established in the European Union other than a Financial Counterparty or a Central Counterparty ('**CCP**'). Such companies might for instance include airlines, energy companies, shipping companies, etc...

<sup>[1]</sup> 'Derivative' means a financial instrument as set out in points (4) to (10) of Section C of Annex I to Directive 2004/39/EC as implemented by Article 38 and 39 of Regulation (EC) N° 1287/2006.

## Reporting Obligation

EMIR stipulates that the details of any derivative contract concluded by both FCs and NFCs should be reported directly to a Trade Repository ('**TR**'). This would also include any modifications or terminations to such contracts. This reporting obligation should therefore not be done through the MFSA.

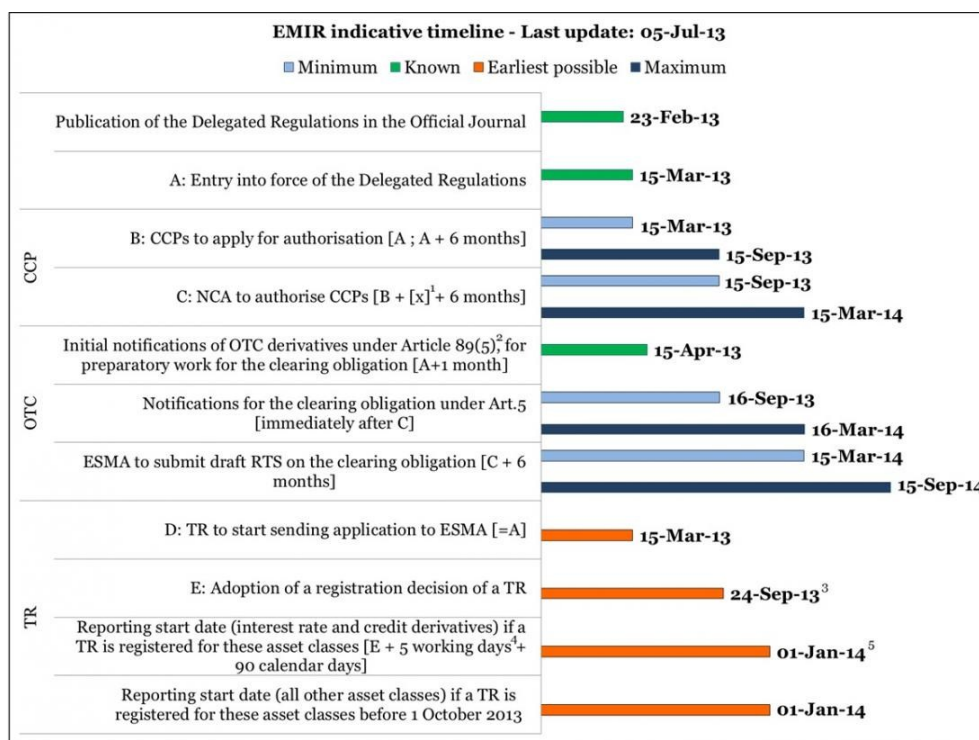
Reporting to the TR is required to be done no later than one working day following the conclusion, modification or termination of a derivative contract. The details to be reported to TRs as required under the reporting obligation, are clearly set in the Commission Delegated Regulation (EU) N° 148/2013, which can be accessed through the following [link](#).

The reporting obligation applies to those derivative contracts which: were entered into before the 16<sup>th</sup> August 2012 and which remained outstanding on that date; or are entered into, on or after the 16<sup>th</sup> August 2012.

EMIR explains that the reporting obligation may be delegated. However, it is specified that when delegating such duties counterparties should then ensure that the details for such derivative contracts are not reported twice. However, this responsibility remains with the counterparty.

ESMA is currently in the process of authorising TRs. The reporting obligation will commence only after ESMA has authorised TRs for the specific asset classes. In its latest timetable, ESMA envisaged that the earliest possible date to commence reporting would be the 23rd September 2013.

The following is ESMA's indicative timetable in relation to EMIR:



(1) [x] is the time needed for the determination of the completeness of the application sent by CCP to NCA.

(2) The notifications under EMIR Article 89(5) do not trigger the front-loading period for a class of derivatives as described in EMIR Article 4(1)(b)(ii). This front-loading period will only be initiated by the notifications referred to in EMIR Article 5(1).

(3) On the basis of the information available so far, ESMA's best estimate is that the adoption of the registration decision of the first TR(s) is not likely to take place before 24<sup>th</sup> September 2013. This should not be understood as meaning that the registration decision will necessarily be adopted on 24<sup>th</sup> September 2013. The exact date on which the registration decision is adopted will depend on the completeness of the TR's application and its compliance with the EMIR provisions.

(4) The registration decision takes effect on the fifth working day following its adoption.

(5) The reporting start date depends on the actual date of the registration of the first TR(s).

*Indicative timeline for the implementation of EMIR (source ESMA website)*

## Clearing Obligation

The clearing obligation applies only to OTC derivative contracts which are entered into between:

- i. Two FCs;
- ii. A FC and a NFC+<sup>[2]</sup>;
- iii. Two NFC+s;
- iv. A FC or a NFC+ and an entity that would be subject to the clearing obligation if it were established in the Union (i.e. similar to a FC or NFC+); or
- v. Two entities established in one or more third countries that would be subject to the clearing obligation if they were established in the Union (i.e. being similar to a FC or NFC+), provided that the contract has a direct effect within the Union.

Counterparty	FC	NFC +	NFC - <sup>[3]</sup>
FC	✓	✓	×
NFC +	✓	✓	×
NFC -	×	×	×

*Clearing Obligation Matrix (source ESMA website)*

The NFC clearing thresholds are highlighted below:

- i. €1 billion in gross notional value for OTC credit derivative contracts;
- ii. €1 billion in gross notional value for OTC equity derivative contracts;
- iii. €3 billion in gross notional value for OTC interest rate derivative contracts;
- iv. €3 billion in gross notional value for OTC foreign exchange derivative contracts; and
- v. €3 billion in gross notional value for OTC commodity derivative contracts and other OTC derivative contracts not provided for in the above-mentioned points [i] to [iv].

NFCs are required to fill-in specific forms when [exceeding the clearing threshold](#) and when [falling below the clearing threshold](#) respectively, and submit the said forms to ESMA ([EMIR-notifications@esma.europa.eu](mailto:EMIR-notifications@esma.europa.eu)) and the MFSa ([emir@mfsa.com.mt](mailto:emir@mfsa.com.mt)) accordingly.

OTC Derivative contracts which are subject to clearing shall be cleared through a CCP. ESMA has not yet published the regulatory technical standards which indicate the relevant class of derivatives that are subject to the clearing obligation along with the dates from which such an obligation shall take effect.

ESMA has indicated that the 15<sup>th</sup> June 2014 is the earliest possible date for the entry into force of this technical standard. Immediately after the entry into force of the technical standard ESMA will provide a list of derivative classes which are subject to the clearing obligation, in a [public register](#) which will be made publicly available by ESMA. The scope of this public register is meant to ensure transparency for market participants regarding the clearing obligation, i.e. the classes of OTC derivatives subject to the clearing obligation and the CCPs which clear them.

The clearing obligation shall apply to OTC derivative contracts which:

- i. Are entered into on or after the date from which the clearing obligation takes effect; or
- ii. Have been outstanding on that date and entered into since the date on which ESMA was notified of the CCP's authorisation (the 'front-loading' period as referred to in Diagram 1 above).

<sup>[2]</sup> Non-Financial Counterparty exceeding the clearing threshold

<sup>[3]</sup> Non-Financial Counterparty below the clearing threshold

It is important to note that although the clearing threshold applies per asset class, once a NFC is above the clearing threshold, the clearing obligation shall apply to all OTC derivative contracts and not solely those related to that particular asset class.

Certain exemptions apply in relation to the clearing obligation, although prior approvals need to be sought from the Authority.

### **Risk Mitigation Techniques**

All counterparties (FCs, NFC+s and NFC-s) that enter into an OTC derivative contract which is not cleared by a CCP, are required to ensure that appropriate procedures and arrangements are in place to measure, monitor and mitigate Operational Risk and Counterparty Credit Risk, including at least:

- i. The timely confirmation of the terms of the relevant OTC derivative contract, by electronic means; and
- ii. Formalised processes which are robust, resilient and auditable, in order to reconcile portfolios, to manage the associated risk and to identify disputes between parties early and resolve them, and to monitor the value of outstanding contracts.

EMIR specifies a number of high-level risk mitigation obligations, which include:

- i. Timely Confirmation: A timely confirmation, by electronic means where possible, of all the terms of the OTC derivative contracts. EMIR specifies the time limits for a confirmation to be timely.
- ii. Portfolio Reconciliation: Counterparties an OTC derivative contract are required in terms of EMIR to agree with each of their counterparties in writing, or other equivalent electronics means, on the arrangements under which the portfolios shall be reconciled.
- iii. Portfolio Compression: Portfolio compression involves parties netting trades to maintain the same risk profile but reducing the number of contracts and therefore the gross notional value.

FCs and NFC+s are also expected to mark-to-market on a daily basis, the value of outstanding contracts.

### **Conclusion**

As a concluding note EMIR in brief therefore requires:

- i. All derivative contracts as set out in points (4) to (10) of Section C of Annex I to Directive 2004/39/EC as implemented by Article 38 and 39 of Regulation (EC) N° 1287/2006, to be reported directly to a TR;
- ii. All OTC derivative contracts listed in ESMA's Public Register (once published) to be cleared through the relevant authorised CCPs; and
- iii. FCs and NFCs that enter into those OTC derivative contracts which are not cleared by a CCP, shall have the necessary risk mitigation techniques in place.

For further queries regarding EMIR, kindly contact Mr Edward Grech [email: [egrech@mfsa.com.mt](mailto:egrech@mfsa.com.mt)] or Mr Nathan Fenech [email: [nfenech@mfsa.com.mt](mailto:nfenech@mfsa.com.mt)].

### **European Long-Term Investment Funds - ELTIFs**

On the 28<sup>th</sup> June 2013, the European Commission proposed a new investment fund framework designed for investors who want to invest money into companies and projects for the long term. These private European Long-Term Investment Funds (ELTIFs) would only invest in businesses that need money to be committed to them for long periods of time. The proposal will be presented to the Heads of State and Government at the upcoming European Council of 27<sup>th</sup>/28<sup>th</sup> June, where long-term financing of the real economy is on the agenda.

The ELTIFs would be available to all types of investor across Europe subject to certain requirements set out in EU law. The ELTIFs are allowed to invest in certain defined types of long-term assets and firms, have to spread their money to reduce risks and the have to provide certain stipulated information to investors. Any ELTIF manager would also have to comply fully with

the requirements of the Alternative Investment Fund Managers Directive ("the AIFMD") to provide adequate protection for its investors.

According to the proposal, ELTIFs would have to meet a set of common rules so that they:

- Always have a depositary to keep assets safe;
- Comply with the rules on spreading assets to prevent too much money going into one asset;
- Only use derivatives to manage currency risks in relation to the assets they hold, and not for speculation; and
- Obey limits on the amount they can borrow.

ELTIFs would invest in illiquid assets which are difficult to buy and sell. In addition, firms need to be confident the money invested in them will be committed for as long as they have told investors they will need it. Therefore, investors will only be able to withdraw money after the specified end date of their investment, which must be clearly disclosed upfront.

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For further queries regarding ELTIFs, kindly contact Mr Christopher Buttigieg, Deputy Director, Securities and Markets Supervision Unit [email: [cbuttigieg@mfsa.com.mt](mailto:cbuttigieg@mfsa.com.mt), Tel: 25485229] or Mr Christopher Micallef, Analyst, Securities and Markets Supervision Unit [email: [cmicallef@mfsa.com.mt](mailto:cmicallef@mfsa.com.mt), Tel: 25485381]

## **MAD II**

The EU Permanent Representatives Committee (COREPER) has approved, on behalf of the Council, a compromise reached with the European Parliament on a draft regulation aimed at tackling insider dealing and market manipulation on securities markets.

The new market abuse rules extends the scope to financial instruments traded on new more recently-created venues such as multilateral trading facilities and organised trading facilities and over the counter (OTC), which are currently not covered by EU legislation, and adapting rules to new technology such as High Frequency Trading.

The manipulation of benchmarks, such as LIBOR, will be explicitly prohibited and subject to administrative sanctions.

Market abuse occurring across both commodity and related derivative markets will also be prohibited, and cooperation between financial and commodity regulators will be reinforced.

A number of measures will be introduced to ensure regulators have access to the information they need to detect and sanction market abuse. Since the sanctions currently available to regulators often lack a deterrent effect, tougher and more harmonised sanctions will be introduced.

Moreover, these rules are set to reduce the administrative burden on SME issuers.

The Presidency has negotiated with the European Parliament on behalf of EU Member States and this agreement is still subject to final approval of the European Parliament. The agreement will enable the Presidency to start negotiations with the European Parliament on the draft Directive, with the aim of adopting both regulation and directive at first reading. Negotiations on the regulation were concluded at a "trilogue" meeting with the Parliament on the 20 June.

Contact persons with regards to the regulation of market abuse: Mr. Christopher P. Buttigieg, Deputy Director, Securities and Markets Supervision Unit [email: [cbuttigieg@mfsa.com.mt](mailto:cbuttigieg@mfsa.com.mt)], or Mr. Edward Grech, Analyst, Securities and Markets Supervision Unit [e-mail: [egrech@mfsa.com.mt](mailto:egrech@mfsa.com.mt)].

## MFSA Economic and Market Overview report

The fourth issue of 'Economic and Market Overview' has been published on the MFSA website. The report provides an overview of Malta's economic performance vis-à-vis that of the Euro area and EU 27 average.

The first section tabulates the performance of a number of key economic variables comparing data for 2011 with 2012. The performance and trends of economic variables with respect to GDP growth, government deficit and gross debt, long-term interest rates, inflation, unemployment, Balance of Payment and Foreign Direct Investment are illustrated in the next section. The report also focuses on Malta's financial services sector illustrating the economic and employment contribution towards the local economy and the licencing trends within the sector. The final section provides an economic outlook on Malta's economy and financial services sector.

This report can be accessed from the MFSA website [www.mfsa.com.mt](http://www.mfsa.com.mt) under Publications.

## European Supervisory Authorities Press Releases issued during July 2013

### European Banking Authority (EBA)



- 10 July 2013 - [EBA consults on draft technical standards on prudent valuation](#)
- 15 July 2013 - [EBA presents data on high earners in EU banks](#)
- 22 July 2013 - [EBA publishes a Recommendation on the preservation of capital](#)
- 26 July 2013 - [EBA publishes first final draft technical standards on own funds and credit risk adjustment](#)
- 26 July 2013 - [EBA publishes final draft technical standards on supervisory reporting requirements](#)
- 29 July 2013 - [EBA, EIOPA and ESMA publish RTS on the consistent application of calculation methods under the Financial Conglomerates Directive](#)
- 29 July 2013 - [EBA consults on technical standards related to classes of instruments used for variable remuneration](#)
- 29 July 2013 - [EBA publishes new answers to questions on the Single Rulebook](#)

### European Insurance and Occupational Pensions Authority (EIOPA)



- 04 July 2013 - [EIOPA publishes the first EU assessment of the financial situation of pension funds](#)
- 18 July 2013 - [EIOPA publishes results of Peer Reviews on Internal Models](#)

### European Securities and Markets Authority (ESMA)



- 01 July 2013 - [ESMA review finds good compliance with EU market abuse rules](#)
- 03 July 2013 - [ESMA publishes research on the sale of complex products to retail financial consumers](#)
- 10 July 2013 - [ESMA launches consultation on implementation of new CRA Regulation](#)
- 12 July 2013 - [ESMA begins detailing central clearing of OTC derivatives](#)
- 17 July 2013 - [ESMA consults on non-EU counterparties OTC derivatives](#)
- 18 July 2013 - [ESMA finalises supervisory co-operation agreements for alternative investment](#)
- 18 July 2013 - [ESMA and ACER strengthen their cooperation](#)

## MFSA Licences - June 2013

### LICENCES ISSUED

#### Collective Investment Schemes

##### *Professional Investor Funds targeting Qualifying Investors*

- Collective Investment Scheme licences issued to **HMP Woodman Funds SICAV plc** in respect of two sub-funds.
- Collective Investment Scheme licence issued to **Malta IFP SICAV plc** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **Sunshine Fund (Malta) SICAV Limited** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **PSquared Master SICAV Limited** in respect of one sub-fund.
- Collective Investment Scheme licence issued to **PSquared SICAV plc** in respect of one sub-fund.

##### *Incorporated Cells*

- Collective Investment Scheme licence issued to **Aros Bond Strategies SICAV IC plc**.

##### *Investment Services*

- Category 2 licence issued to **Cresco Capital Markets (Malta) Limited**.
- Category 2 licence issued to **Thybo Investment Management (Malta) Limited**.

##### *Recognised Incorporated Cell Companies*

- Recognition Certificate issued to **Aros RICC Ltd**.

### Insurance

#### *Insurance Undertakings*

- Licence issued to **R & Q Insurance (Malta) Ltd** to carry on business of insurance and reinsurance in thirteen classes of the general business.

#### *Protected Cells*

- Approval of **Cell A18** as a cell of White Rock Insurance (Europe) PCC Ltd to carry on business of insurance.

### SURRENDERED LICENCES

#### Collective Investment Schemes

##### *Professional Investor Funds targeting Qualifying Investors*

- Surrender of licence issued to **Forsythe Investment SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Paragon SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Prestige SICAV plc** in respect of one sub-fund.
- Surrender of licence issued to **Shelter Island Fund SICAV plc** in respect of one sub-fund.

**EXTENDED LICENCES****Trustees & Fiduciaries**

- Extension of Category 2 licence issued to **Gamma Capital Markets** Limited to provide investment advice to professional clients (including Collective Investment Schemes).
- Extension of licence issued to Osiris Trust Limited to include acting as an administrator of private foundations.

**Registry of Companies - New Registrations - June 2013**

Companies	Partnerships	Total
329	4	333

**MFSA Notices**

- 01/07/2013 - [Surrender of Licence by World Dynamic Fund SICAV plc](#)
- 04/07/2013 - [Surrender of Licence by Novium Opportunity Umbrella SICAV plc](#)
- 10/07/2013 - [Surrender of Licence by Century Leader SICAV plc](#)
- 12/07/2013 - [Surrender of Licence by BlueGold Investments Limited](#)
- 15/07/2013 - [Notice to Financial Services Licence Holders - FIAU Annual Report 2012](#)
- 17/07/2013 - [Surrender of Licence by Financial + Investment Services Limited](#)
- 26/07/2013 - [Surrender of Licences by NBCG Fund SICAV plc](#)
- 26/07/2013 - [Surrender of Licences by Innocap Fund SICAV plc](#)
- 30/07/2013 - [Surrender of Licence by Brewin Dolphin Portfolios Limited](#)
- 30/07/2013 - [Surrender of Licence by SC Malta SICAV plc](#)

**MFSA Listing Authority Announcements**

- 04/07/2013 - [Extension of period of Suspension of public offer - A25 Gold Producers Corp](#)
- 18/07/2013 - [Extension of period of Suspension of public offer - A25 Gold Producers Corp](#)

**Warnings**

MFSA warnings and Foreign warnings received by MFSA can be viewed on the [MFSA Website](#).



## Forthcoming Events

**29 September - 02 October -** [FERMA Risk Management Forum 2013 - Living and working in a riskier world](#)

### Education Consultative Council (ECC)

Training by members of the ECC:

- [Malta International Training Centre](#)
- [Institute of Financial Services](#)



You can keep up-to-date on our news and regulatory developments by regularly visiting our [website](#) or by subscribing to our [RSS feeds](#).

The MFSA Newsletter is issued on a monthly basis by the MFSA Communications Unit, email: [communications@mfsa.com.mt](mailto:communications@mfsa.com.mt)

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