

Corporate Governance Framework of the Malta Financial Services Authority

Responsible Official: Secretary to the Board of Governors

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MALTA FINANCIAL SERVICES AUTHORITY CORPORATE GOVERNANCE FRAMEWORK

1.0 INTRODUCTION

1.1 The purpose of this document is to establish the corporate governance framework within which the Malta Financial Services Authority (hereinafter “the Authority” or “the MFSA”) operates. The objective of the corporate governance framework is to define the constitution of the MFSA in the way that it is governed, directed, and controlled by its internal governing bodies, being primarily the Board of Governors, and the way it operates and functions under the Executive Committee.

1.2 In this regard the document specifies the distribution of the rights and responsibilities from the Board of Governors to the Executive Committee and to the Board Committees and other internal committees carrying out regulatory and supervisory functions and other responsibilities.

1.3 The Board of Governors is committed to meeting high standards of corporate governance and ethical standards and has therefore decided to develop this corporate governance framework which is complemented by the Ethics Framework, the Code of Conduct and the Anti-Fraud Policy of the Authority.

1.4 The Malta Financial Services Authority Act (*Cap 330*) provides for the overall governance of the Authority through the establishment of the roles and responsibilities of the Board of Governors in the establishment of policy and strategy and the Executive Committee in the overall implementation of the policies and strategies established by the Board of Governors.

1.5 This Introduction is followed by brief notes on the constitution and history of the Authority. The Framework then includes three main parts with Part I relating to the Board of Governors, Part II relating to the Executive and overall functions of the Authority and Part III relating to other statutory committees which support the regulatory and supervisory function of the Authority.

1.6 This Framework will be reviewed by the Board of Governors on an annual basis, or earlier, if circumstances so warrant.

2.0 CONSTITUTION, HISTORY AND STRUCTURE OF THE AUTHORITY

2.1 The MFSA was established in 1994 as the Malta Financial Services Centre through Act XIII of 1994 (Malta International Business Activities (Amendment) Act) to take over the functions of its predecessor, the Malta International Business Authority, which was established through Act XXXIV of 1988 (Malta International Business Activities Act) with the purpose of developing Malta as an international financial centre. In July 2002, having taken over regulatory and supervisory functions previously carried out by the Central Bank of Malta, the Malta Stock Exchange, the Ministry of Finance and the Malta Financial Services Centre itself, the Malta Financial Services Centre was re-designated as the Malta Financial Services Authority, governed by the Malta Financial Services Authority Act (Cap 330).

2.2 According to Article 3 of the MFSA Act (Cap 330) which established the MFSA, the Authority shall be a body corporate having a distinct legal personality and capable of entering

into contracts, of acquiring and disposing of property of any kind for the purposes of its functions under this Act or any other law, of suing and of being sued, and of doing all such things and entering into all transactions as are incidental to or conducive to the exercise or performance of its functions aforesaid.

2.3 The MFSA is a fully autonomous public institution and reports to Parliament on an annual basis. It is partly funded by the industry it regulates through statutory fee-raising powers and partly by Government through the Consolidated Fund. Notwithstanding, the Authority operates independently from the Government and aims to be fully self-funded in the medium term.

2.4 The Authority is the single regulator for financial services, including trustees and company service providers in Malta. In terms of the Malta Financial Services Authority Act (Cap 330), the Board of Governors also acts as the Listing Authority for the purposes of the Financial Markets Act (Cap 345) and as the Resolution Authority for the purpose of Directive 2014/59/EU¹ and the Recovery and Resolution Regulations (L.N. 301 of 2015).

2.5 The financial services sector incorporates all financial activity including that of credit institutions, financial institutions, electronic money institutions, payment institutions, securities and investment services companies, funds, regulated markets, insurance companies, pension schemes and trustees.

2.6 The Authority is also responsible for consumer education and consumer protection in the financial services sector.

2.7 In partly fulfilling its statutory responsibility to ensure high standards of conduct and management throughout the financial system, the Authority makes and maintains effective arrangements for consulting practitioners and consumers on the extent to which its general policies and practices are consistent with its general duties. The Authority does this through various committees, meetings and discussions on its rules, policies and directives.

2.8 According to the MFSA Act (Cap 330) the main organs of the Authority are the Board of Governors, the Executive Committee and the Directorates as may be established by the Board of Governors from time to time.

2.9 The [organisational structure](#) of the Authority ensures that the regulatory and operational functions of the Authority are exercised within strict legal demarcations. The Board of Governors, presided by the non-executive Chairman, sets out policy and general direction while the Chief Executive Officer (who by law is a non-voting member of the Board of Governors) and his team in the Executive Committee are responsible for the overall management and performance of the Authority, and strategy development/implementation, including reforms in the financial services sector.

¹ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, OJ L 173 12.06.2014, p 190-348

PART I – THE BOARD OF GOVERNORS

1.0 ESTABLISHMENT AND PROCEEDINGS OF THE BOARD OF GOVERNORS

1.1 The [Board of Governors](#) is established by the relevant provisions of the MFSA Act (Cap 330) which also governs its proceedings.

1.2 The Board of Governors shall be composed of a Chairman appointed by the Prime Minister, the Chief Executive Officer, who does not have voting rights and is appointed by the Board of Governors, and not less than five other members appointed by the Prime Minister from among persons who have distinguished themselves in business, financial activities, the professions, the public services or academic affairs and who, in the opinion of the Prime Minister, are able to represent the points of view of the industry and consumers of financial services. The MFSA Act (Cap 330) further provides for the criteria for a person to be eligible to be appointed or hold the position of Chairman or Member of the Board of Governors.

1.3 The Board of Governors currently consists of the non-executive Chairman, the Chief Executive Officer (non-voting member) and eight non-executive members.

1.4 According to the MFSA Act (Cap 330) the Board of Governors shall meet as often as may be necessary or expedient, but in no case, not less frequently than once every three months, and may act notwithstanding any vacancy amongst its members provided there is a quorum consisting of not less than three members present at the meeting.

1.5 Moreover, Article 7 of the Law provides that the meetings of the Board of Governors shall be chaired by the Chairman, or in his absence by the Deputy Chairman, or by a member elected for that particular meeting by the other members present at the meeting. Decisions of the Board of Governors shall be taken by a majority of votes of the members present, and the Chairman, or other person chairing the meeting, shall have an original vote, and in the event of an equality of votes, a second or casting vote.

1.6 Subject to the provisions of the MFSA Act (Cap 330) regarding the proceedings of the Board of Governors, the Board of Governors may regulate its own proceedings.

2.0 THE ROLE OF THE BOARD OF GOVERNORS

2.1 The Board of Governors is the highest governing body of the MFSA. It establishes the policies and sets the strategic direction of the Authority while ensuring that the MFSA has the necessary financial, human and other resources to meet its statutory objectives. The Board of Governors provides leadership of the organisation and reviews the efficiency and effectiveness of the management performance within a framework of prudent and effective controls that enable the identification, assessment and management of risk.

2.2 The Board of Governors sets the standards for its own and the Authority's behavioural conduct through the Ethics Framework, the Code of Conduct and the Anti-Fraud Policy.

2.3 The role of the Board of Governors, within the statutory framework of establishing policies to be pursued by the Authority both internally and externally, includes:

- i. following such policy guidelines as may be set out by Government in determining the policies to be pursued by the Authority;
- ii. advising the Government generally on the formulation of policies in the field of financial services, and making recommendations to Government on action which in the opinion of the Authority would be expedient in relation to matters falling within the regulatory and supervisory functions of the Authority;
- iii. appointing the Chief Executive Officer;
- iv. appointing a Deputy Chairman from among the Board Members;
- v. appointing and removing the Board Secretary;
- vi. establishing Directorates within the Authority in terms of Article 5 of the MFSA Act (*Cap 330*), each of which is made up of a number of units;
- vii. making strategic decisions in consultation with the executive, as may be necessary, that impact on the future operations of the MFSA;
- viii. reviewing the performance of the Executive Committee in the day to day business and operations of the Authority;
- ix. establishing effective and appropriate policies for the management of identified risks of the Authority and seeking regular assurances that the internal controls system is effective in managing these risks in accordance with established policies. In this regard approving the Risk Appetite Statement of the Authority and setting its Risk Appetite tolerance;
- x. approving the Annual Audit Plan of the Internal Audit function;
- xi. overseeing the effective and efficient achievement of its regulatory objectives;
- xii. taking specific decisions on matters that the Board of Governors or the Executive Committee consider to be contentious in nature or to be of such significance that decisions should be taken at Board of Governors level;
- xiii. maintaining a sound system of financial control and in this regard adopting estimates of the income and expenditure of the Authority for the financial year as presented to it by the Executive Committee;
- xiv. approving expenditure that falls within the authorised procurement limits of the Board of Governors;
- xv. approving internal policies such as physical security, procurement, remuneration, health and safety, corporate responsibility, communications, business continuity management, risk management, financial and similar;
- xvi. appointing external auditors from among persons who are qualified to be appointed as auditors of a company to audit the financial statements of the Authority;
- xvii. approving the Annual Report and Financial Statements of the Authority;

- xviii. maintaining adequate human resources of the levels required by the Authority in fulfilling its objectives;
- xix. establishing the necessary Board Committees, appointing the Chair and members thereto, approving their terms of reference, and maintaining appropriate arrangements to ensure accountability regarding their decisions through periodic reporting;
- xx. maintaining high level relations with the government and with other domestic and international relevant organisations or authorities and other stakeholders;
- xxi. acting as the Listing Authority and as the Resolution Authority in accordance with the provisions of the Financial Markets Act (*Cap 345*) and the MFSA Act (*Cap 330*) respectively, and in its role as Resolution Authority appointing the Resolution Committee;
- xxii. appointing the Chairperson, members and the Secretary of the Enforcement Decisions Committee in terms of Article 11 of the MFSA Act (*Cap 330*);
- xxiii. appointing the Chairpersons and members of the Management Committees of the Protection and Compensation Fund, the Depositors Compensation Scheme and the Investors Compensation Scheme; and
- xxiv. ensuring compliance by the Authority with its international obligations within the context of Malta's international commitments as defined in Article 4(2) and Article 4(4) of the MFSA Act (*Cap 330*).

2.4 The Board of Governors seeks to have adequate information available to it in order to take informed decisions. The MFSA Act (*Cap 330*) imposes a duty on the organs of the Authority to provide the Board of Governors with all such information as may be required for the proper performance of its functions and, particularly, to enable it to ensure that its policies are being properly carried out.

2.5 Notwithstanding that by law the Board of Governors is required to meet not less frequently than once every three months the Board of Governors actually meets at least between ten to twelve times a year. All meetings are convened by the Chairman either on his own initiative or by the written request of three members.

2.6 The Board of Governors may invite any person and may require any officer or employee of the Authority to attend a meeting of the Board of Governors and to take part in the discussions.

3.0 THE ROLE OF THE CHAIRMAN OF THE BOARD OF GOVERNORS

3.1 The responsibilities of the Chairman in the running of the Board of Governors and of the Chief Executive Officer of the MFSA for the running of the overall operations of the Authority through the Executive Committee are not exercised by the same person and are clearly defined in the MFSA Act (*Cap 330*). The separation of responsibilities ensures that no one individual has unfettered powers of decision.

3.2 The Chairman has no executive responsibilities for the day-to-day running of the Authority but undertakes such responsibilities as Chairman by fostering effective and efficient relationships between the executive and the non-executive members of the Board of Governors. The Chairman provides a source of counsel and challenge to the Chief Executive Officer on the running of the Authority within the strategy that is formulated in a clear and understandable manner, both internally and externally.

3.3 The Chief Executive Officer ensures that the Chairman is properly briefed on all the business of the Authority. To this effect the Chairman and the Chief Executive Officer discuss all major issues and emerging policies, particularly, any contentious matters or matters likely to set significant precedent, through frequent and normal internal meetings.

3.4 The key responsibilities of the Chairman of the Board of Governors include:

- i. Chairing and leading an efficient and effective Board through:
 - ensuring that the Board of Governors meets with sufficient frequency;
 - fostering an open, inclusive discussion between Board Members which, where and as appropriate, challenges the executive;
 - ensuring that the Board and its Members devote sufficient time and active discussion to the matters within their remit and items on the Board Agenda;
 - ensuring that the Board and its Members have the appropriate and necessary information to perform their respective tasks and to take informed decisions through an effective decision-making process; and
 - periodically evaluating and assessing the performance of the Board and its individual Members.
- ii. Maintaining an effective relationship with the Chief Executive Officer of the Authority, providing support and challenge as appropriate to ensure the proper achievement of the objectives of the MFSA.
- iii. Managing, together with the Chief Executive Officer, key relationships with a wide range of both internal and external stakeholders to raise the profile and policies of the Authority.
- iv. Representing the MFSA on national and international fora as necessary and appropriate.
- v. Ensuring the accountability of the MFSA by being the centre for communication with Government Ministries and other stakeholders on significant issues.

4.0 THE ROLE OF THE CHIEF EXECUTIVE OFFICER TOWARDS THE BOARD OF GOVERNORS

4.1 The Chief Executive Officer is responsible for the overall performance of the Authority and the implementation of its objectives, strategy, and policies as set by the Board of Governors. The Chief Executive Officer is appointed by the Board of Governors. By law, the Chief Executive Officer is a non-voting member of the Board of Governors.

4.2 The legal and judicial representation of the Authority vests in the Chief Executive Officer, or in such other person as the Board of Governors may determine for any specific case or class of cases.

4.3 All MFSA staff, with the exception of the Internal Audit Function, the Chairman's secretariat, the Secretary to the Board of Governors and the Resolution Function ultimately report to the Chief Executive Officer.

4.4 The key responsibilities of the Chief Executive Officer towards the Chairman and the Board of Governors include:²

- i. participating effectively at meetings of the Board of Governors in a non-voting membership capacity;
- ii. reporting regularly to the Board of Governors with appropriate, timely and quality information so that the Board of Governors can discharge its responsibilities efficiently and effectively;
- iii. informing and consulting with the Chairman on all matters of significance to the Board of Governors such that the Chairman and the Board of Governors can properly discharge their responsibilities;
- iv. implementing effectively the policies established by the Board of Governors;
- v. developing, implementing and delivering the strategic objectives agreed with the Board of Governors;
- vi. recommending to the Board of Governors significant operational changes, and major capital expenditures where these are beyond the delegated authority of the Chief Executive Officer;
- vii. causing, through the Executive Committee, the preparation of estimates of the income and expenditure of the Authority for that financial year for the adoption of the Board of Governors;
- viii. assisting and supporting the Chairman in managing key relationships with a wide range of both internal and external stakeholders to raise the profile and policies of the Authority.

² For details on the responsibilities of the Chief Executive Officer for the management and the day-to-day running of the Authority refer to Part II - The Executive.

5.0 THE ROLE OF THE NON-EXECUTIVE MEMBERS OF THE BOARD OF GOVERNORS OTHER THAN THE CHAIRMAN

5.1 The non-executive members of the Board of Governors, other than the Chairman, and which make up the majority of the Board, are appointed by the Prime Minister for a five-year period in accordance with the eligibility criteria established by Article 6 of the MFSA Act (*Cap 330*). These non-executive members of the Board of Governors have a variety of skills and experience that are appropriate for the requirements of the MFSA.

5.2 In the event that a member of the Board has a conflict of interest, whether personal or professional, such conflict of interest is declared to the Chairman and the other members of the Board of Governors. All appropriate steps will be taken to protect both the Board Member and the Authority itself, and to ensure that all decisions are taken without any suggested or perceived unlawful bias. Such measures include the non-participation of the Board Member in the discussion and decision or the Board Member concerned leaving the Board Room temporarily until the discussion is held and the decision taken.

5.3 When a meeting of the Board of Governors is not chaired by the Chairman or the Deputy Chairman for any reason, the Members of the Board of Governors present for that meeting may elect one of them to chair that particular meeting.

5.4 The non-executive members of the Board of Governors may meet privately with the Chairman to discuss any concerns they may have without the presence of the Chief Executive Officer.

5.5 The members of the Board of Governors of the Authority treat any information acquired in the discharge of their duties as confidential, and do not, directly or indirectly, disclose such information to any other person, except with the consent of the person who had divulged the information.

5.6 The Authority, the members of the Board of Governors, the members of the Executive Committee or any sub-committee thereof and of the Resolution Committee and the officers and employees of the Authority, benefit from exemption from liability for damages for anything done or omitted to be done in the discharge or purported discharge of any function under the MFSA Act (*Cap 330*) or any other Act administered by the Authority, or otherwise in the exercise of their official duties, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

6.0 THE ROLE OF THE SECRETARY TO THE BOARD OF GOVERNORS

6.1 The Secretary to the Board of Governors is appointed and removed by the Board of Governors for such period and as the Board of Governors deems appropriate. The Secretary is accountable to the Board of Governors through the Chairman.

6.2 The Secretary makes the necessary preparations for the meetings of the Board of Governors and keeps minutes of those meetings.

6.3 The Secretary prepares the Agenda for Board Meetings in liaison with the Chairman, ensuring that items on the Agenda are accompanied by the necessary documentation together

with a brief note from the relevant business area explaining the item and what is expected of the Board of Governors (a decision, a direction, or taking note). All documents for the Agenda items are numbered consecutively on a yearly basis and cross-referenced to the Agenda and shall form an integral part of the minutes. The Secretary ensures that the Agenda and all relevant documents reach the Board Members within a week prior to the Meeting.

6.4 The Secretary prepares the minutes of each Board Meeting and reviews them with the Chairman prior to their approval at the following Meeting of the Board of Governors. The Secretary shall inform the relevant business areas of the decisions, directions or otherwise taken by the Board of Governors and keep a list of action points to ensure that decisions taken by the Board of Governors are followed up for implementation.

6.5 The Secretary provides a source of advice to the Board Members and is responsible for ensuring that procedures of the Board of Governors are followed and that applicable legislative and internal rules and regulations relating to the operations of the Board of Governors are met. In this respect, the Secretary ensures the good information flows within the Board of Governors and its committees, as well as between senior executive management and the non-executive Members of the Board of Governors.

6.6 The Secretary ensures that business of the Board of Governors is compliant, where applicable and appropriate, with the relevant provisions of the MFSA Act (*Cap 330*) and any other relevant regulations and legislation.

6.7 The Secretary keeps under review all legal and regulatory developments affecting the operations of the Board of Governors and ensures that the non-executive Board Members are properly briefed about them by the relevant responsible business area.

7.0 DELEGATION OF AUTHORITY BY THE BOARD OF GOVERNORS – BOARD COMMITTEES

7.1 The Board of Governors retains all decision-making powers vested in it either by law or by its own internal decisions unless it has delegated such powers to a committee or an individual, where permitted by law. The Board of Governors retains responsibility for all delegations by it, which continue to be without prejudice to the power of the Board of Governors to exercise the delegated functions itself.

7.2 To this effect the Board of Governors has established certain Board Committees to which it has delegated specific powers, duties and responsibilities:

- i. The [Audit Committee](#) is governed by specific provisions in the MFSA Act (*Cap 330*). The purpose of the Audit Committee is to assist the Board of Governors in its oversight responsibilities for the internal governance, internal controls, financial statements, operational risk management framework and internal audit function of the Authority. It provides its opinion on the quality of the activities of the Authority to the Board of Governors on the basis of assessment reports received from the Internal Audit function and other information available to it. In doing so the Audit Committee provides assurances to the Board of Governors on the effectiveness of the internal control framework and governance. The Audit Committee is composed of three non-executive Board Members

appointed by the Board of Governors in accordance with the relevant provisions of the MFSA Act (*Cap 330*). The Audit Committee is further governed by the [Audit Committee Charter](#) which is periodically reviewed and approved by the Board of Governors.

- ii. The [Risk Committee](#) has been established by the Board of Governors as part of its governance structure. The purpose of the Risk Committee as an independent committee of the Board of Governors of the Authority is responsible for the establishment of an organisation-wide risk management framework for the Authority and the oversight of the operations of the risk management framework, including the ongoing review of the risk register and the action plans around it. Consequently, the Committee assists the Board of Governors, who has the ultimate responsibility for risk exposure, in setting out the risk appetite statement and the risk appetite tolerance of the Authority, and in fulfilling the overall oversight of risk management responsibilities of the Board of Governors. Risk identification, risk assessment and risk management are, and remain, the responsibility of the Authority's management. The Board of Governors appoints the Chairman of the Risk Committee from among the non-executive members of the Board of Governors and the Executive Committee appoints the Deputy Chairman. The Chief Officer responsible for Strategy, Policy and Innovation and the Head of Risk Management are members. The Risk Committee is governed by the [Risk Committee Charter](#) which is periodically reviewed and approved by the Board of Governors.

7.3 The Board of Governors may establish other Board Committees, consisting of such members as the Board Members think fit, and the Board of Governors may delegate to those committees the exercise of specific powers, duties and responsibilities.

8.0 EVALUATION OF THE BOARD OF GOVERNORS

8.1 On an annual basis, the Board of Governors undertakes or outsources to third parties a formal, objective and rigorous review of its own performance, the performance of its committees and the performance of the individual Executive and Non-Executive members of the Board of Governors.

8.2 Where such a review is not undertaken the Board of Governors shall report and record in its minutes reasons why such review is not undertaken.

PART II – THE EXECUTIVE

1.0 ESTABLISHMENT AND PROCEEDINGS OF THE EXECUTIVE COMMITTEE

1.1 While the Board of Governors has overall responsibility for the operational and administrative policies of the MFSA, there are a number of cross-organisational committees with the responsibility for co-ordinating the development and implementation of policies and advising on major issues within the MFSA. The purpose of this section is to bring together some of the key materials and principles relevant to the role of the Chief Executive Officer (CEO) of the MFSA and the responsibilities and structures of the main Committees set up within the MFSA. Some of these requirements are mandated by the MFSA Act (*Cap 330*) while the links for each Committee reflect guidance for the operations, structure and composition of the respective Committees.

1.2 It is through involvement in these Committees, and, in particular, the statutory Executive Committee that the MFSA's Senior Management team contributes, among other things, towards the development and execution of the MFSA's strategy, risk appetite and organisational culture.

1.3 The [Executive Committee](#) ('ExCo' or 'the Committee') of the MFSA is one of the main organs of the Authority established by Article 9 of the MFSA Act (*Cap 330*). The Executive Committee consists of the Chief Executive Officer, who chairs the meetings of the Committee, the General Counsel, being the Chief Officer leading the Directorate for Legal and International Relations, and of each of the Chief Officers responsible respectively for supervision, enforcement, corporate services, operations, strategy, policy and innovation, and for any other aspect falling within the remit of the Authority as may be determined by the Board of Governors from time to time.

1.4 Subject to the relevant provisions of the MFSA Act (*Cap 330*) regarding the proceedings of the Executive Committee, the Executive Committee regulates its own proceedings.

2.0 THE ROLE OF THE EXECUTIVE COMMITTEE OF THE MFSA

2.1 The Executive Committee is the highest Committee within the MFSA responsible for the overall performance and operations, internal controls, corporate finance, resourcing and administration. It fulfils its responsibilities through frequent meetings, but as a minimum once every month, and decision-taking ensuring that the Authority meets its vision and objectives within the strategy as established by the Board of Governors.

2.2 Article 9 of the MFSA Act (*Cap 330*) outlines the key responsibilities and accountabilities of the ExCo wherein the Executive Committee is responsible for the:

- i. implementation of the strategy and policies of the Authority;
- ii. approval of regulation;
- iii. approval and issue of licences and other authorisation;
- iv. monitoring and supervision of persons and other entities licensed or authorised by the Authority in the financial services sector;

- v. enforcement of the regulatory framework in the financial services sector;
- vi. carrying out of the day-to-day management and finances of the Authority, including human resources and ancillary services;
- vii. general coordination of the Authority's administrative affairs; and
- viii. ongoing compliance by the Authority with its international obligations within the context of Malta's international commitments as defined in Article 4(2) and Article 4(4) of the MFSA Act (*Cap 330*).

2.3 In addition, the ExCo is responsible for the day-to-day activities of the Authority's business, for the development and implementation of business plans, policies, procedures and budgets estimates, and consequently for monitoring the operating and financial performance of the Authority, prioritising and allocating investment and resources, approving expenditure that falls within the authorised procurement limits of the Executive Committee, managing and developing talent and managing the risk profile of the Authority.

2.4 According to its powers under the law, the Executive Committee may, with the approval of the Board of Governors, from time to time delegate in writing its functions and powers, on such matters and subject to such conditions and modalities as may be specified in the delegation. The Executive Committee is also responsible for establishing and empowering sub-committees, units and functions.³

2.5 The Executive Committee acts as the Listing Committee in terms of Article 14 of the Financial Markets Act (*Cap 345*).

3.0 THE ROLE OF THE CHIEF EXECUTIVE OFFICER OF THE MFSA

3.1 In terms of Article 2 of the MFSA Act (*Cap 330*) the Chief Executive Officer is appointed by the Board of Governors and is *ex-officio* a non-voting member of the Board of Governors of the Authority.

3.2 Furthermore, in terms of Article 8 of the MFSA Act (*Cap 330*) the legal and judicial representation of the Authority is vested in the Chief Executive Officer, or in such other person as the Board of Governors may determine for any specific case or class of cases, but provided that the Board of Governors may from time to time appoint any one or more of its members, or any one or more of the officers or employees of the Authority, to appear in the name and on behalf of the Authority in any judicial proceedings or on any act, contract, instrument or other document whatsoever, or in any class or category thereof.

3.3 The CEO is the Officer responsible for the overall performance of the Authority and the implementation of its objectives, strategy, and policies as set by the Board of Governors. In achieving these objectives, the CEO:

³ Refer to Section 6.0 Delegation of Authority by the Executive Committee

- i. ensures that the Chairman of the Board of Governors is properly briefed on MFSA operations and activities;
- ii. discusses all major issues and emerging policies through frequent and normally informal meetings with the Chairman of the Board of Governors, and specifically discusses any contentious matters or those likely to set significant precedent.

3.4 The Chief Executive Officer is responsible for implementing the strategy agreed by the Board of Governors, in the formulation of which the CEO will have played a major part. All MFSA staff, with the exception of the Internal Audit Function, the Chairman's secretariat, the Secretary to the Board of Governors and the Resolution Function ultimately report to the Chief Executive Officer.

3.5 The key responsibilities of the Chief Executive Officer towards the executive, in addition to those responsibilities towards the Board of Governors and the Chairman as included under Part I of this Framework,⁴ include:

- i. the overall responsibility for creating, planning, implementing, and integrating the strategic direction of the Authority, which includes responsibility for all components, departments and business areas;
- ii. leading the development and implementation of the overall strategy of the Authority;
- iii. overseeing the complete operations of the Authority in accordance with the direction established in the strategic plans;
- iv. creating and implementing the vision and mission of the Authority;
- v. chairing and giving direction to the Executive Committee and ensuring regular meetings with effective participation by all members;
- vi. chairing and giving direction to the Executive Committee in its statutory role as the Listing Committee in terms of the Financial Markets Act (*Cap 345*);
- vii. providing support, advice and direction to the entire workforce of the Authority;
- viii. assigning responsibilities clearly to senior management;
- ix. recruiting, appointing, developing and retaining talented people to work at the MFSA and, in particular, establishing a strong management team which is fairly and fully evaluated;
- x. developing a culture of operational efficiency within the organisation;
- xi. ensuring and overseeing the establishment of effective risk identification, assessment and management systems with a supporting control system;
- xii. monitoring and ensuring the efficient use of the finances of the Authority such that the Authority is, at all times, capable to meet its financial commitments

⁴ Refer to Section 4.4 of Part I of the Framework

through adequate income and expenditure in accordance with its annual estimates;

- xiii. communicating throughout the MFSA the strategic objectives and the values of the MFSA agreed with the Board of Governors, and ensuring that these are achieved in practice;
- xiv. sharing with the Chairman of the Board of Governors and with other members of the MFSA senior management the responsibility for communicating the MFSA's messages externally and managing stakeholder relationships;
- xv. evaluating the success of the organisation in reaching its goals;
- xvi. representing the MFSA on particular national and international fora as may be necessary; and
- xvii. taking such steps as are necessary to ensure that the MFSA, at all times, is capable of exercising its statutory functions effectively and efficiently.

4.0 THE ROLE OF THE CHIEF OFFICERS AS MEMBERS OF THE EXECUTIVE COMMITTEE

4.1 The Chief Officers, being the Officers responsible for a Directorate which is a section of the Authority established by the Board of Governors as one of the organs of the Authority and which is made up of a number of units and functions, are the permanent members of the Executive Committee.

4.2 The Chief Officers participate actively and effectively within the Executive Committee. It is their responsibility to attend all meetings of the Executive Committee and to contribute effectively for the efficient proceedings of the Committee.

4.3 The Chief Officers provide the Executive Committee with accurate and timely information on the proceedings of their respective Directorates in order to assist the Committee in making the right informed decisions.

4.4 The Chief Officers ensure the effective and efficient implementation of the strategy of the Authority as agreed within the Executive Committee.

5.0 THE ROLE OF THE SECRETARY TO THE EXECUTIVE COMMITTEE

5.1 The Executive Committee designates one of the officers of the Authority, engaged in any of the functions represented by the Members of the Committee, to act as Secretary to the Executive Committee for such period and under such terms as the Executive Committee deems appropriate.

5.2 The Secretary makes the necessary preparations for the meetings of the Executive Committee and keeps minutes of those meetings.

5.3 The Secretary prepares the Agenda for Meetings of the Executive Committee in liaison with the Chief Executive Officer. S/He ensures that items on the Agenda are accompanied by the necessary documentation to assist the Committee Members to make informed decisions.

The Secretary ensures that the Agenda and all relevant documents reach the Committee Members within a week prior to the Meeting.

5.4 The Secretary prepares the minutes of each Meeting of the Executive Committee and reviews them with the Chief Executive Officer prior to their approval at the following Meeting of the Executive Committee.

5.5 The Secretary ensures that the business of the Executive Committee, including when acting as the Listing Committee, is compliant, where applicable and appropriate, with the relevant provisions of the MFSA Act (*Cap 330*) and any other relevant regulations and legislation.

6.0 DELEGATION OF AUTHORITY BY THE EXECUTIVE COMMITTEE

6.1 According to its powers under the law, the Executive Committee may from time to time delegate in writing its functions and powers on such matters, and subject to such conditions and modalities as may be specified in the delegation, subject to the terms and duration as determined by the Executive Committee, to the Chief Executive Officer or one or more of the members of the ExCo, or to a function or unit of the Authority, as may be specified. Any decisions so made shall be approved by the Board of Governors and subsequently made public on the website of the Authority.

6.2 The Executive Committee is also legally responsible for establishing and empowering sub-committees, units and functions and it determines the respective remits of such sub-committees, units and functions.

6.3 To this effect, and in terms of the powers vested in it through Article 9(2) and Article 9(3) of the MFSA Act (*Cap 330*) as applicable, the Executive Committee has established the following delegations and sub-committees to which it has delegated specific powers, duties and responsibilities:

- i. The [Regulatory Committee](#) (RegCo), acts within the delegation framework established by the Executive Committee and endorsed by the Board of Governors. In terms of Article 9(2) of the MFSA Act (*Cap 330*) ExCo, which remains responsible for the authorisation and supervision of all persons and entities within the remit of the MFSA, has delegated to the Chief Officer Supervision the approval, monitoring and supervision of supervised natural persons and entities falling within the regulatory and supervisory remit of the MFSA, with the exception of operators under the Virtual Financial Assets Act (*Cap 590*). For this purpose, the Chief Officer Supervision has established 'RegCo' to co-ordinate effectively the approval and issuance of licenses and authorisations and to undertake supervision of all such persons in terms of the applicable Maltese law and the Authority's regulatory rules and regulations. Notwithstanding the foregoing, RegCo is still required to obtain confirmation of approval from ExCo prior to issuing licences to credit institutions, insurance principals, category 3 & 4 Investment Services providers, and Trading Venues (Multilateral Trading Facilities (MTFs), Organised Trading Facilities (OTFs) and regulated markets). RegCo is chaired by the Chief Officer Supervision and includes the Heads of the respective Supervisory functions and the Authorisations function.

- (ii) The [Change Management Committee](#) (CMC) is established by ExCo in terms of Article 9(3) of the MFSA Act (*Cap 330*) to effectively and efficiently give a structure to the change management process and prioritisation to the projects undertaken by the Authority. The Committee reports directly to ExCo. The CMC evaluates proposed changes that are substantiated by a business case which will facilitate decision-making and also tackles business transformation-related issues, ensuring that any change presented is in line with the MFSA's corporate vision. This is mainly achieved through the two separate functions of the CMC in support of the change management process, namely that of a Change Advisory Function and that of a Change Authority Function. The Committee is composed of internal senior officers and external consultants that are in a position to recommend best practice. The CMC convenes fortnightly. The Agenda for an upcoming meeting, minutes of the previous meetings and any relevant documentation are circulated to the Committee members at least one week prior to the date of the meeting.

7.0 EVALUATION OF THE EXECUTIVE COMMITTEE

7.1 On an annual basis, the Executive Committee undertakes or outsources to third parties a formal, objective and rigorous review of its own performance, the performance of its sub-committees and the performance of the individual members of the Executive Committee against the provisions of its Charter and statutory obligations and responsibilities.

7.2 Where such a review is not undertaken the Executive Committee shall report and record in its minutes reasons why such review is not undertaken.

PART III – OTHER STATUTORY COMMITTEES

1.0 INTRODUCTION

1.1 The MFSA Act (*Cap 330*) further establishes other committees specifically to assist the Authority in fulfilling its responsibilities and obligations. These committees form part of the overall governance of the Authority, in its role as the regulatory and supervisory body and in the functions vested by law in the Board of Governors when acting as the Listing Authority, or the Resolution Authority.

1.2 The Board of Governors is responsible to ensure that these committees are properly established and, through reporting, monitors that they are functioning effectively and efficiently.

2.0 THE LISTING COMMITTEE

2.1 The [Listing Committee](#) is established by Article 14 of the Financial Markets Act (*Cap 345*) as the Committee to which the Listing Authority may delegate any of its functions and powers under the Financial Markets Act (*Cap 345*). Article 14 vests the functions of the Listing Committee to the Executive Committee established under Article 9 of the MFSA Act (*Cap 330*).

2.2 The Listing Committee is consequently chaired by the Chief Executive Officer with the members being the members of the Executive Committee.

2.3 The Listing Committee makes recommendations to, and otherwise assists, the Board of Governors in its role as the Listing Authority in the admissibility to listing of financial instruments. It performs any other specific functions as the Listing Authority from time to time delegates to it in writing.

2.4 The Listing Committee has such powers and follows such procedures as the Listing Authority may establish, and periodically reports on its activities to the Listing Authority. Otherwise, the Listing Committee can regulate its own proceedings.

2.5 The Listing Committee meets at least once a month, but it can meet as often as is necessary.

2.6 The Listing Committee may appoint additional sub-committees for the purpose of assisting it in the performance of such specific functions as the Listing Committee may delegate to them in writing.

3.0 THE RESOLUTION COMMITTEE

3.1 The Resolution Committee is appointed by the Board of Governors acting as the Resolution Authority in terms of Article 7B of the MFSA Act (*Cap 330*). The Committee has all

the powers assigned to the Resolution Authority under the BRRD.⁵ The composition, [powers](#) and functions of the Resolution Committee are governed by the provisions set out in the First Schedule to the MFSA Act (*Cap 330*) and in terms of any regulations made under the Act.

3.2 The Resolution Authority and the Resolution Committee are operationally independent and act independently of each other and of the Executive Committee.

3.3 The [Resolution Committee](#) is composed of three persons, these being, a person appointed by the Central Bank of Malta, a person appointed by the Authority, and a person appointed by the Ministry responsible for Finance, and who have distinguished themselves in banking and financial-related matters or have the relevant experience in financial supervision, regulation, resolution and insolvency of institutions. The Members are appointed for a period of not more than three years and are eligible for reappointment for a maximum overall period of six years.

3.4 The Members of the Resolution Committee are subject to the same eligibility criteria as established for the members of the Board of Governors under Article 6 of the MFSA Act (*Cap 330*).

3.5 The main objective of the Resolution Committee is the orderly recovery and resolution of credit institutions and investment firms within the powers and responsibilities vested in the Committee through the First Schedule to the MFSA Act (*Cap 330*).

3.6 The Resolution Committee meets as frequently as necessary. It appoints its own Secretary from among the resources of the Resolution function and may invite any person and may require any officer of the Resolution function or of the Authority to attend a meeting of the Resolution Committee and to take part in the discussion. The Resolution Committee otherwise regulates its own proceedings.

3.7 The Resolution Committee is supported by the Resolution function which, in addition to the functions assigned to the function under the MFSA Act (*Cap 330*), undertakes any other responsibilities assigned to the function by the Resolution Committee. The function reports periodically to the Resolution Committee and to the Resolution Authority on the activities and developments within its area of competence.

4.0 THE ENFORCEMENT DECISIONS COMMITTEE

4.1 The [Enforcement Decisions Committee](#) is established through the provisions of Article 11 of the MFSA Act (*Cap 330*). The Committee is composed of a Chairman and four other members appointed by the Board of Governors for a period of not more than three years, and who are eligible for reappointment. In addition to the eligibility criteria for the appointment of the Chairman and Members of the Enforcement Decisions Committee in terms of Article 11 of

⁵ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, OJ 173 12.06.2014, p 190-348

the MFS Act (*Cap 330*), specific provisions of Article 6 of the MFS Act (*Cap 330*) concerning eligibility criteria for the appointment of the Members of the Board of Governors apply to the office of the chairman and members of the Enforcement Decisions Committee.

4.2 The objective of the Enforcement Decisions Committee is for it to decide or take such action as it considers appropriate, promptly and without delay, in relation to any recommendation for enforcement action brought before it. Notwithstanding, the Executive Committee may decide on an enforcement action itself in circumstances where an urgent meeting of the Enforcement Decisions Committee cannot be convened or for the protection of the interests of consumers.

4.3 The provisions of Article 7 of the MFS Act (*Cap 330*), in so far as applicable, apply to the meetings of the Enforcement Decisions Committee as they apply to the meetings of the Board of Governors. The Enforcement Decisions Committee therefore meets as often as may be necessary or expedient but in no case not less frequently than once every three months, with the meetings being convened by the Chairman of the Committee.

4.4 The Board of Governors designates one of the officers of the Authority to act as Secretary to the Enforcement Decisions Committee and whose duty is to make the necessary preparations for the meetings of the Enforcement Decisions Committee and to keep minutes of those meetings.

4.5 For the better carrying out of its functions, and before arriving at any decision, the Enforcement Decisions Committee may decide to hear any person in relation to any matter being considered by it.

4.6 Subject to the foregoing provisions the Enforcement Decisions Committee may regulate its own proceedings.

4.7 Notwithstanding, with the approval of the Board of Governors, the Executive Committee may:

- establish a detailed remit for the Enforcement Decisions Committee and may also establish that certain enforcement actions, which it does not deem to be material, may be taken by the Chief Officer responsible for enforcement;
- make rules governing the procedure for conducting any hearings that may take place before the Enforcement Decisions Committee.

4.8 The Enforcement Decisions Committee shall report to the Board of Governors on the progress made in its area of competence.

4.9 Notwithstanding, the Enforcement Decisions Committee is independent of the Executive Committee and the Board of Governors, and acts independently of them.

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