

09 January 2020

## Circular to Collective Investment Schemes on the appointment of Service Providers

### A. APPOINTMENT OF SERVICE PROVIDERS ON NON-RETAIL COLLECTIVE INVESTMENT SCHEMES OTHER THAN PROFESSIONAL INVESTOR FUNDS INVESTING IN VIRTUAL CURRENCIES, LOANS OR IMMOVABLE PROPERTY

The MFSA advises all entities licensed as Collective Investment Schemes other than retail Collective Investment Schemes and Professional Investor Funds investing in Virtual Currencies, Loans or Immovable Property, that applications notifying and, or requesting the consent of the MFSA for a change in service providers – Manager, Administrator, Custodian and/or Prime Broker – are to submit to the MFSA the documents outlined below.

#### *Appointment of service providers regulated in EU/EEA*

An application proposing the appointment of a service provider which is regulated in the European Union or the European Economic Area, must be accompanied by a signed declaration from the Board of Directors/General Partner(s)/Trustee as the case may be:

- (i) confirming that the Board of Directors/General Partner(s)/Trustee have ascertained that the proposed service provider is authorised to provide the relevant service by its home state regulator;
- (ii) specifying the regulatory body, licence issue date and licence number of the proposed service provider.

#### *Appointment of service providers regulated outside EU/EEA*

Where the proposed service provider is regulated outside the European Union or the European Economic Area, the application must be accompanied by:

- (i) a signed declaration from the Board of Directors/General Partner(s)/Trustee as the case may be, as outlined in the preceding section;
- (ii) such other information as the MFSA may, having regard to the circumstances, deem appropriate.

Licence holders are reminded to forward any such applications to [ausecurities@mfsa.com.mt](mailto:ausecurities@mfsa.com.mt) in the format outlined in the [MFSA's Circular to Licence Holders and Applicants for a Licence proposing individuals for an Approved Position](#).

## B. OUTSOURCING OF DUTIES ATTRIBUTABLE TO THE MLRO TO THE MLRO OF THE ADMINISTRATOR OF A COLLECTIVE INVESTMENT SCHEME

### *Administrators recognised under the Investment Services Act (Cap. 370)*

With immediate effect, where the duties attributable to the MLRO of a collective investment scheme are proposed to be carried out by the MLRO of its administrator in line with Chapter 5 of Part 1 of the FIAU Implementing Procedures, the requirement to submit a personal questionnaire and suitability assessment is hereby waived.

### *Administrators subject to authorisation, licensing or recognition in an EU Member State or in a third country other than a non-reputable jurisdiction*

Where the administrator of the collective investment scheme is not recognised under the Investment Services Act (Cap. 370) but is subject to authorisation, licensing or recognition in an EU Member State or a third country other than a non-reputable jurisdiction, the application submitted by the collective investment scheme proposing the outsourcing of the MLRO function to the MLRO of such administrator is to be accompanied by:

- (i) an apostilled copy of an identification document of the individual proposed as MLRO; and
- (ii) a declaration from the Board of Directors of the scheme confirming that they have ascertained that the administrator is subject to AML/CFT obligations consistent with the PMLFTR, especially in relation to reporting and reporting procedures, and is supervised for compliance with these obligations.

All applications for the outsourcing of the duties attributable to the MLRO of a collective investment scheme to the MLRO of the administrator are to be submitted to [ausecurities@mfsa.com.mt](mailto:ausecurities@mfsa.com.mt). Licence Holders must also proceed to register the change request via their Corporate Profile hosted on the MFSA's Licence Holder Portal.