

15 July 2020

Circular addressed to all Licence Holders regarding their obligations in relation to record keeping

It is one of the Authority's key supervisory priorities to raise the quality of the governance and control environments in licensed entities.

The purpose of this circular is to draw the attention of licensed entities to their obligations in relation to record keeping, as well as the Authority's expectations in this regard.

In order to protect their customers, comply with their regulatory obligations and to enable the Authority to properly supervise them, licensed entities are required to retain accurate documentation and records relating to their governance and oversight of regulated activity and their interactions with customers in accordance with their legal and regulatory obligations. The Authority expects that firm's records should be readily available for inspection by the Authority as required.

The Authority considers that this record keeping obligation extends to interactions with potential clients or customers, whether or not they are eventually onboarded.

Licensed entities are required to ensure that all correspondence relating to client contact/introduction, on boarding of clients, client acceptance and all ongoing exchanges throughout the relationship are retained centrally.

All the information provided to the firms should be accessible to those who deal with clients in their day to day work or for monitoring purposes.

In the course of its supervision, and most notably during onsite inspections, the MFSA is repeatedly encountering record keeping issues which prevent the Authority from carrying out thorough and effective supervision at licensed entities; for example, records relating to clients, customers, beneficial owners or beneficiaries are not being retained in an accessible format in a centralised location.

When records are not retained centrally, firms are unable to cooperate adequately with the Authority and this is hindering the supervisory work of the Authority as onsite inspections are being unnecessarily prolonged.

Where licence holders are unable to comply promptly with the Authority's information requirements, or pre-inspection or on-site requests, the inspection will not proceed, and the firm may be determined to have failed to cooperate with the Authority and further action may be considered.