

28 July 2020

## Circular on the Recommendation of the European Systemic Risk Board of 27 May 2020 on restriction of distributions during the COVID-19 pandemic

### 1.0 Introduction

This circular is being issued in order to adopt the [Recommendation of the European Systemic Risk Board of 27 May 2020 on restriction of distributions during the COVID-19 pandemic](#) (“the Recommendation”).

The Recommendation stems from the economic crisis that developed following the coronavirus disease 2019 (COVID-19), which has a potential to evolve into a systemic financial crisis. The ultimate aim of the Recommendation is to have sufficient levels of capital and loss absorbing capacity remaining in the financial institutions to mitigate the impact of this ongoing crisis and thereby contribute to a smoother recovery for the pan-European economy as a whole.

### 2.0 Definitions

For the purposes of this circular a ‘Systemic Important Investment Firm’ (“SIIF”) is a Category 2 or 3 Investment Services Licence Holder which is not also authorised under the Banking Act (Cap. 371 of the Laws of Malta) and which meets all of the following criteria:

- (i) Total Assets exceeding €100m;
- (ii) Number of clients exceeding 50,000;
- (iii) Holds and/ or controls clients’ instruments for more than €3bn; *and*
- (iv) Holds and/ or controls clients’ monies for more than €400m.

For the purposes of this circular and in line with the Recommendation, a ‘material risk taker’ means a member of a category of staff whose professional activities have a material impact on the risk profile of the SIIF, including the Board of Directors, persons who effectively run the SIIF or have other key functions and other categories of staff whose professional activities have a material impact on the SIIF’s risk profile.

### 3.0 Restriction on distributions

A SIIF shall at least until January 2021 refrain from undertaking any of the following actions:

- a) make a dividend distribution or give an irrevocable commitment to make a dividend distribution;
- b) buy-back ordinary shares;
- c) create an obligation to pay variable remuneration to a material risk taker,

which has the effect of reducing the quantity or quality of own funds at the EU group level (or at the individual level where the authorised SIF is not part of an EU group), and, where appropriate, at the sub-consolidated or individual level.

#### 4.0 Conclusion

The full text of the Recommendation can be accessed [here](#). Any queries or requests for clarifications in respect of the above should be sent by email on [investmentfirms@mfsa.mt](mailto:investmentfirms@mfsa.mt).