

20 January 2021

## Conduct of Business Rulebook Revisions

Reference is made to the Conduct of Business Rulebook ('Rulebook') originally issued by the Malta Financial Services Authority ('the Authority') on 20th December 2017. A copy of the revised Rulebook can be found on the Authority's website and accessed [here](#).

The changes carried out to the Rulebook are the following:

### Requirements Applicable to the Securities Sector

- Transposition of Article 44(a) of Directive (EU) 2019/879 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (BRRD2)

MiFID firms offering subordinated eligible liabilities ('instrument') issued on or after the 28<sup>th</sup> December 2020 to Retail Clients must comply with the new requirements set out in Chapter 4, Section 1 Part E of the Rulebook. Sellers of subordinated eligible liabilities must always carry out a suitability test irrespective of the type of investment service before carrying out a transaction in this instrument. The seller can proceed with the transaction only if it is deemed that such instrument is suitable for the Retail Client. To note that neither the seller nor the Retail Client can proceed with the transaction if such transaction in the subordinated eligible liabilities is deemed unsuitable.

- ESMA Guidelines on the knowledge and competence of staff

In June 2020, the Authority issued the revised version of the Rulebook to reflect the relevant [ESMA guidelines on the knowledge and competence of staff](#). These requirements have been included in Part A, Section 4 of Chapter 4 of the Rulebook. New Rules have been included in respect of the knowledge and competence for staff giving information about investments products; investment services or ancillary services. Furthermore, there are also specific Rules in respect of the knowledge and competence for staff giving investment advice.

## Summary of Amendments

The below table summarises the amendments made:

Definitions/Glossary Section	Definitions of 'Complaints' and 'Subordinated Eligible Instruments/Liabilities' have been added in the Definitions/Glossary section.
Part A, Section 4, Chapter 4	Rules have been included in Section 4 of Chapter 4 introducing requirements applicable to staff of investment firms and tied agents who provide information about investment products and/or service and/or provide investment advice (published in June 2020).
Part E, Section 1, Chapter 4	Rules 4.1.47 to 4.1.50 have been added to include the new requirements related to the sales of subordinated eligible liabilities issued after 28 December 2020 to Retail Clients.

## Contacts

Any queries or requests for clarifications on the contents of this Circular should be addressed to Conduct Supervision on [financialpromotion@mfsa.mt](mailto:financialpromotion@mfsa.mt).