

MFSA RULE 4
AUTHORISATIONS

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CONTENTS

Title 1 - General Scope and High-Level Principles.....	1
Section 1 - Scope	1
Section 2 - Legal Basis.....	1
Section 3 - Definitions.....	1
Section 4 - Transitory Period.....	2
Title 2 - Authorisations.....	3
Section 1 - Scope and Application	3
Section 2 - Authorisations Process - Service Charter	3
Section 3 - Authorisation Process Structure.....	3
Section 4 - Authorisation Process.....	4
Sub-section 1 - Intention Stage	4
Sub-section 2 - Pre-Authorisation Stage	5
Sub-section 3 - Extensions.....	6
Sub-section 4 - Withdrawal of Application.....	6
Section 5 - Authorisation Forms.....	6
Annex 1 - Scope of Authorisation Process and Forms.....	8
Annex 2 - Authorisation Process - New Application Time Commitments	11

REVISIONS LOG

VERSION	DATE ISSUED	DETAILS
1.00	30 June 2021	RULE 4 OF THE MFSA ACT ISSUED
1.01	02 July 2021	CORRECTED TYPOGRAPHICAL ERRORS

Title 1 General Scope and High-Level Principles

Section 1 Scope

R4-1.1.1 The scope of this Rule is to provide the procedures and duties of persons licensed or authorised by the MFSA or falling under its regulatory or supervisory functions, in relation to authorisations.

Section 2 Legal Basis

R4-1.2.1 In terms of Article 16(2)(a) of the Malta Financial Services Authority Act, the Malta Financial Services Authority, as established under Article 3 of the Act, may issue and publish Rules regulating the procedures and duties of persons licensed or authorised by it, or falling under its regulatory or supervisory functions.

R4-1.2.2 This Rule is being issued in terms of Article 16(2)(a) of the Act and should be read in conjunction with any other legislative and/or regulatory framework, administered by the Authority, in force in Malta and any regulations and rules issued thereunder.

Section 3 Definitions

R4-1.3.1 For the purposes of this Rule, the definitions identified under R4-1.2.2 should be read in conjunction with the provisions of the MFSA Act and any other special law administered by the Authority for the time being in force in Malta.

R4-1.3.2 In the event that any of the definitions contained hereunder conflict with a definition under the MFSA Act or any other law administered by the Authority for the time being in force in Malta, the definitions set out in the Act or in any other such law shall prevail.

‘Applicant’ means a person who has submitted an application with the Authority for the purposes of being granted an authorisation.

‘Application’ means the application submitted by an Applicant.

‘Authorisation’ means to the formal authorisation, by the Authority, to a person, which the Authority is entitled to grant through or by the provision, issuance, validation, confirmation, certification or otherwise in writing to an applicant and includes any licence, permission, authorisation, approval, confirmation, enrolment,

	recognition, certification by, registration with, or notification to the Authority in terms of any special law which the Authority is entitled to administer or enforce and the terms "authorisation" or "authorised person" shall be construed as a reference to the relevant form of authorisation, or the holder thereof, as the case may be.
‘Malta Financial Services Authority Act’, ‘MFSA Act’ or ‘the Act’	means the Malta Financial Services Authority Act, Chapter 330 of the Laws of Malta.
‘Malta Financial Services Authority’, ‘MFSA’ or ‘Authority’	means the Malta Financial Services Authority, as established by the Malta Financial Services Authority Act.
‘Prospective Applicant’	means a person who has submitted a Statement of Intent to MFSA but has not submitted an application with the Authority for the purposes of being granted an authorisation.
‘Rule’	means Rule 4 under the MFSA Act.

Section 4 Transitory Period

R4-1.4.1 This Rule will be applicable from **5 July 2021**.

Provided that Prospective Applicants may submit applications using the previous version of the respective Authorisation Application Forms until **31 August 2021**.

Provided that the submissions of new and previous Applications, falling within scope of this Rule, through the LH Portal will be mandatory and applicable as from **5 July 2021**.

Title 2 Authorisations

Section 1 Scope and Application

R4-2.1.1 This Rule is applicable to Prospective Applicants, and Applicants, as applicable, for all the authorisations as indicated in Annex 1 to this Rule.

Provided that where a conflict with other Rules issued under the MFSA Act or any other special law administered by the Authority currently in force in Malta, the Rules set out in this Rule shall prevail, unless otherwise specified herein.

Provided that any person who has submitted an application to act as a Company Service Provider in terms of article 19 of the Company Service Providers Act (Chapter 529 of the Laws of Malta) shall not fall within scope of this Rule.

Section 2 Authorisations Process - Service Charter

R4-2.2.1 Prospective Applicants and Applicants shall refer to the MFSA Authorisation Process – Service Charter when determining:

- i. the Authority's considerations and expectations applicable to Prospective Applicants and Applicants; and
- ii. the timeframes applicable to the applicant for the effective conclusion of the authorisation process.

R4-2.2.2 Prospective Applicants and Applicants shall also refer to the MFSA Authorisation Process – Service Charter for guidance on the MFSA Authorisation Process as stipulated in Sections 3 and 4 of this Rule.

Section 3 Authorisation Process Structure

R4-2.3.1 The MFSA Authorisation process consists of four stages, namely: (1) Intention Stage; (2) Pre-Authorisation Stage; (3) Authorisation Stage; and (4) Post-Authorisation Stage and shall be triggered when a Prospective Applicant submits an intention to submit an application for authorisation.

R4-2.3.2 Further to the information and/or documentation required to be submitted to the Authority, the Authority may, at its discretion and at any stage, request any additional information and/or documentation as it may deem appropriate.

R4-2.3.3 The Applicant shall provide the Authority with information, which is truthful, accurate and complete.

R4-2.3.4 Further to R4-2.3.3, Applicants shall notify the MFSA immediately in the event that the information previously provided to the Authority has changed.

R4-2.3.5 Applicants shall adhere to the timeframes stipulated in Annex 2 to this Rule.

Section 4 Authorisation Process

Sub-section 1 Intention Stage

R4-2.4.1.1 Prior to the submission of an Application, Prospective Applicants are requested to submit their intention to the MFSA, through a Statement of Intent.

R4-2.4.1.2 Pursuant to R4-2.4.1.1, the Statement of Intent should be in the format of a high-level presentation and include the following details of the Prospective Applicant:

- i. Identification and contact details;
- ii. If the Applicant is/or will be structured as a legal person, formation details as follows:
 - a. formation details:
 - when formed, the Applicant should state its formation details; or
 - when not yet formed, the Applicant should state its proposed formation details including proposed name;
 - b. diagram of the actual or proposed shareholding structure, as applicable, specifying (i) the percentage holdings of all persons in the ownership structure of the Prospective Applicant up to the ultimate beneficial owner/s, highlighting those persons that fall within the definition of "qualifying shareholder" as laid down in the various sectoral laws, as well as those entities within the structure that are regulated; and
 - c. Indication of any regulatory history of the Prospective Applicant and related persons, including group entities, if applicable, including any history of applications filed with other regulatory authorities;
- iii. Identification and contact details of the Applicant's representative, where applicable;

- iv. Proposed organisational structure, including (i) diagram, (ii) names of directors and key function holders; (iii) the relevant reporting lines; and (iv) respective time commitments.
- v. Identification of the type of authorisation required and the proposed financial service activities intended to be undertaken; and
- vi. An outline of the Prospective Applicant's (i) business model; (ii) business strategy; (iii) local substance; (iv) type of clients to be serviced and geographical target markets; (v) location of risks; and (vi) outsourcing, as applicable.

R4-2.4.1.3 Pursuant to point (iii) and (iv) of R4-2.4.1.2, the Prospective Applicant should also include a diagram.

R4-2.4.1.4 The Authority, upon receipt of the intention may, at its discretion, schedule a preliminary meeting with the Applicant and/or request further information, as it may deem necessary.

R4-2.4.1.5 Prospective Applicants shall refer to the Authorisations Charter for further information on how the intention should be submitted to the Authority.

Sub-section 2 Pre-Authorisation Stage

R4-2.4.2.1 Submission of Application

R4-2.4.2.2 Applicants, shall upon being instructed by the MFSA, be able to submit their Application to the Authority using the Authorisation Forms outlined in Annex 1 of this Rule.

R4-2.4.2.3 Applications should be submitted to the Authority through the [MFSA Licence Holder Portal \('LH Portal'\)](#) and any correspondence in relation to an Application should be made through the messaging system available therein.

R4-2.4.2.4 Review of Application

R4-2.4.2.5 The MFSA shall not initiate the review of the application until such time that both: (i) the respective authorisation fee as mandated by the applicable law; and (ii) the Application together with all the required supporting documentation have been submitted to the Authority.

R4-2.4.2.6 Completeness of Application

R4-2.4.2.7 Applications shall only be considered complete in terms of the applicable law after the MFSA determines that the submission addresses all matters indicated by the Authority and is of sufficient quality to proceed to the next stage of the process.

R4-2.4.2.8 Upon being provided feedback by the MFSA, Applicants shall revise the submitted Application with the requested information until R4-2.4.2.7 is satisfied.

R4-2.4.2.9 Any statutory timelines stipulated in the respective special law administered by the Authority shall only be triggered when the Applicant is informed that the Application is considered to be complete.

Sub-section 3 Extensions

R4-2.4.3.1 Any Extensions to the timelines stipulated in the Authorisations Charter shall require the approval of the Authority.

R4-2.4.3.2 Applicants wishing to extend any of the timelines as stipulated in the Authorisations Charter are to inform the MFSA immediately and prior to the expiry of the relevant timeline.

R4-2.4.3.3 When requesting an extension, Applicants shall submit a justifiable explanation as to why the said extension is being sought.

Sub-section 4 Withdrawal of Application

R4-2.4.4.1 Applicants can withdraw their Application throughout the Authorisation Process.

R4-2.4.4.2 Pursuant to R4-2.4.4.1, Applicants wishing to withdraw their Application are to inform the MFSA immediately upon knowing their intention.

R4-2.4.4.3 The MFSA may also consider an application as withdrawn if an Applicant fails to adhere to the respective stipulated time frames throughout the Authorisation Process, unless the said Applicant has not requested an Extension in accordance with Sub-section 4 of this Rule.

R4-2.4.4.4 Should the MFSA decide to consider an application as withdrawn, the decision shall be communicated to the Applicant.

Section 5 Authorisation Forms

R4-2.5.1 Applicants shall submit their Application as indicated in Annex 1 to this Rule.

R4-2.5.2 Provided that where the Application is not specified in Annex 1 to this Rule the application form as specified in applicable rules shall apply.

R4-2.5.3 Applicants need to submit the information and supporting documentation specified within the respective Application and shall be guided by the notes provided in the said Application.

Provided that the MFSA retains the right to request any additional information that is required for the purpose of carrying out the assessment of the application.

R4-2.5.4

Applicants shall also make reference to the Guidelines to the Authorisation Forms ([link](#)), the Frequently Asked Questions ([link](#)) and any other publication relevant to authorisations issued by the MFSA from time to time when completing the Application.

Annex 1 - Scope of Authorisation Process and Forms

Sector	Authorisation Type	Authorisation Framework	Authorisation Process	Authorisation Application Form	
Banking	Credit Institutions	Article 6 of the Banking Act (Chapter 371 of the Laws of Malta)	✓	AA01 - Credit Institutions	
	Credit Intermediaries	Article 18 of the Credit Agreements for Consumers relating to Residential Immovable Property Regulations	✓	PREVIOUS FORM	
	Financial Institutions	Article 5 of the Financial Institutions Act (Chapter 376 of the Laws of Malta)	✓	AA03 - Financial Institutions	
Securities and Markets	Investment Services Licence Holders	Investment Firms	✓	AA04 - Investment Firms	
		Alternative Investment Fund Managers (AIFM)	✓	AA05 - Fund Management	
		UCITS Management Companies	✓		
		De Minimis AIFM	✓		
		Custodians	✓	AA08 - Custodians	
	Recognised Persons	Recognised Fund Administrators	Article 9A of the Investment Services Act (Chapter 370 of the Laws of Malta)	✓	AA06 - Fund Administrators
		Recognised Incorporated Cell Company		✓	
	Collective Investment Schemes	Undertakings for the Collective Investment in Transferable Securities	Article 6 of the Investment Services Act (Chapter 370 of the laws of Malta)	✓	AA07 - Funds
		Alternative Investment Funds		✓	
		Professional Investment Funds		✓	
Regulated Markets (Trading Venues operated by a Market Operator)		Article 4(1) of the Financial Markets Act (Chapter 345 of the Laws of Malta)	✓	AA10 - Trading Venues operated by a Market Operator	

Annex 1 - Scope of Authorisation Process and Forms

Sector	Authorisation Type		Authorisation Framework	Authorisation Process	Authorisation Application Form
Insurance and Pensions	(Re)Insurance Undertakings		Article 7 of the Insurance Business Act (Chapter 403 of the Laws of Malta)	✓	AA12 - Undertakings
	Insurance Intermediaries	Enrolment in the Agents, Brokers, Managers List	Article 13 of the Insurance Distribution Act (Chapter 487 of the Laws of Malta)	✓	PREVIOUS FORMS AVAILABLE ON AND SUBMITTED VIA LH PORTAL
		Registration of individuals in the Agents, Brokers or Managers Register	Article 7 of the Insurance Distribution Act (Chapter 487 of the Laws of Malta)	✓	
		Enrolment in the Tied Insurance Intermediary List	Article 37 of the Insurance Distribution Act (Chapter 487 of the Laws of Malta)	✓	
		Enrolment in the Ancillary Insurance Intermediaries List	Article 43D of the Insurance Distribution Act (Chapter 487 of the Laws of Malta)	✓	
	Retirement Scheme Administrator		Article 6 of the Retirement Pensions Act (Chapter 514 of the Laws of Malta)	✓	AA16 - Retirement Scheme Administrator
	Retirement Schemes	Personal Retirement Schemes	Article 4 of the Retirement Pensions Act (Chapter 514 of the Laws of Malta)	✓	AA17 - Personal Retirement Schemes
		Occupational Retirement Schemes		✓	AA18 - Occupational Retirement Schemes
	Other Service Providers	Custodians	Article 6 of the Retirements Pensions Act (Chapter 514 of the Laws of Malta)	✓	AA19 - Other Service Providers
		Investment Managers			
Retirement Funds		Article 5 of the Retirement Pensions Act (Chapter 514 of the Laws of Malta)	✓	AA20 - Retirement Funds	
Virtual Financial Assets	VFA Agents		Article 7 and/or Article 14 of the Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)	✓	PREVIOUS FORMS AVAILABLE ON AND SUBMITTED VIA LH PORTAL
	VFA Service Providers		Article 13 of the Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)	✓	
	Whitepapers		Article 3 of the Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)	✓	

Annex 1 - Scope of Authorisation Process and Forms

Sector	Authorisation Type	Authorisation Framework	Authorisation Process	Authorisation Application Form
Trustees and Company Service Providers	Company Service Providers ¹	Article 3 of the Company Service Providers Act (Chapter 529 of the Laws of Malta)	✓	AA24 - CSP
	Trustee / Fiduciary Services	Article 43 of the Trusts and Trustees Act (Chapter 331 of the Laws of Malta)	✓	AA25 - Trustee / Fiduciary Services
	Trustee of Family Trusts	Article 43B of the Trusts and Trustees Act (Chapter 331 of the Laws of Malta)	✓	AA26 - Trustee of Family Trusts
	Notaries acting as Qualified Persons	Regulation 3 of the Trusts and Trustees Act (Registration of Notaries to act as Qualified Persons) Regulations – Legal Notice 14 of 2015	✓	AA27 - Notaries acting as Qualified Persons

¹ This excludes any person who has submitted an application to act as a Company Service Provider in terms of article 19 of the Company Service Providers Act (Chapter 529 of the Laws of Malta). Such Applicants will: (i) follow the transitory authorisation process as established by the Authority specifically for this purpose; and (ii) submit any documentation required by the MFSA for the successful conclusion of this said process.

Annex 2 - Authorisation Process - New Application Time Commitments

Stage		Type	Time Frames applicable to Applicant	Trigger of Applicant Time Frame
Pre-Authorisation Stage	Submission of Application	Application Submission following clarifications	40 working days	From receipt of the communication
	Submission Review	Submission of any missing documents with the Application	20 working days	From receipt of the communication
	Quality Review	Initial Application Review Feedback	3 weeks	From receipt of MFSA feedback
Pre-Authorisation and Authorisation Stage		Replies to MFSA Feedback	15 working days	From receipt of MFSA feedback

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