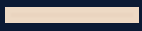


AUTHORISATION PROCESS



SERVICE CHARTER

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REVISIONS LOG

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1 Introduction

1.1 Background

The Malta Financial Services Authority ('MFSA' or 'Authority') is the competent authority in Malta responsible for the authorisation, supervision and enforcement of persons providing financial services requiring an authorisation in terms of applicable financial services legislation currently in force in Malta and administered by the MFSA.

The authorisation process is a critical part of the Authority's supervisory framework and each Applicant¹ seeking authorisation must meet the prescribed requirements set out in the relevant special law administered by the MFSA and the regulations and rules issued thereunder and be guided by any relevant guidelines (hereinafter collectively referred to as 'regulatory framework').

The MFSA is committed towards raising its service standards by providing a more structured approach to the authorisation lifecycle, from pre-authorisation to post-authorisation. Indeed, the expectations and commitments provided for in the Authorisation Process - Service Charter ('Charter') seek to enhance the transparency, expectations and time commitments of the authorisation process and decisioning. The MFSA's commitment is dependent on the commitment and cooperation by Applicants with the Authority, in ensuring that any submissions of Authorisation Application Forms and the respective supporting documentation, as applicable, (hereinafter collectively referred to as 'Application'), are timely and complete. **In this regard, the MFSA will be adopting a strict position when it comes to incomplete Applications which lack the required documentation and quality in line with the applicable regulatory requirements and expectations.**

It remains the **responsibility of Applicants to present an Application with all the required documentation and a method of operations which includes a business model, strategy and organisational structures, as relevant, that meet the applicable regulatory requirements and expectations of the Authority.**

1.2 Scope of Document

Supplementing [Rule 4 of the MFSA Act](#) ('Rule 4'), the purpose of this document is to: (i) provide a clear outline of the MFSA's authorisation process; (ii) communicate to interested parties, Prospective Applicants² and Applicants seeking authorisation what is expected of them; and (iii) to clearly set out the MFSA's time commitment within the authorisation process.

This document is meant to be a starting point when such persons are considering applying for authorisation. It also aims to facilitate the authorisation process by engaging with Applicants, providing high-level guidance, and setting out the Authority's expectations in terms of regulatory standards.

¹ This refers to a person who has submitted an application with the Authority for the purposes of being granted an authorisation.

² This refers to persons who have submitted a Statement of Intent to MFSA but has not submitted an application with the Authority for the purposes of being granted an authorisation.

Furthermore, the document sets out key changes and enhancements affecting the processing of Applications that the Authority has implemented.

1.3 Structure of Document

Following this Introduction, Section 2 provides a concise outline of the objective of Authorisations and its underlying considerations and aspects. This is followed by an overview of the stages in the authorisation process and highlights the importance of each step, as well as the Authority's expectations in respect of each part of the process, in Section 3.

Section 4 includes an outline of the time commitments applicable throughout the authorisation process, as well as a timing commitment with regards to the appointment of individuals, who would already have been subject to a due diligence assessment by the Authority.

2 Authorisations – A General Overview

2.1 Definition

As stipulated in Rule 4, for the purposes of the process and supporting documentation the term Authorisation shall refer 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.

2.2 Objective

The authorisation process is a crucial gateway for the MFSA to ensure that persons wishing to provide a service falling within scope of legislation administered by the Authority meet the minimum regulatory requirements as established by the respective regulatory framework at the time of authorisation and on an ongoing basis.

As set out in Article 4A of the Malta Financial Services Authority Act (Chapter 330 of the Laws of Malta) ('MFSA Act'), *"the granting of a licence is a concession and a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving the licence holder's qualifications to hold a licence shall rest, at all times, on the licence holder"*.

The Authority uses the authorisation process both as a preventive and forward-looking preventive mechanism, enabling the MFSA to achieve its statutory functions, *inter alia*, including the promotion of financial market integrity and the legitimate expectations of consumers of financial services, as well as ensuring high standards of conduct and management throughout the financial system.

In fulfilling its statutory functions and objectives, the MFSA adopts a robust and structured approach which is aimed at ensuring that only Applicants which **demonstrate the required readiness and capability to comply, on an ongoing basis, with the relevant regulatory requirements are authorised**.

2.3 Authorisations Decisioning

In determining an Application, the Authority is exercising a discretion conferred on it by law, as part of its regulatory remit and the responsibilities attendant thereon; this discretion is an unfettered one and hence, in the course of its exercise, the Authority has a concurrent unfettered discretion to request any information that it may require in order to take that decision. Whilst the Authority is required to act reasonably in taking its authorisation decisions, Applicants do not have any right to a particular outcome from those decisions.

2.4 Areas of Focus

In reaching an authorisation decision, the MFSA delves into various aspects of the Applicant, *inter alia*, its (i) **profile**, which focuses on the Applicant's ownership and group structure, regulatory history and significant events; and (ii) **activity and method of operations** including proposed activity, the business strategy and model, governance arrangements and other various areas of focus relevant to the MFSA and determines whether the Applicant meets the applicable regulatory requirements and expectations of the Authority.

Additionally, the MFSA assesses all the persons involved within the Applicant falling within scope of approval by the MFSA ('Involvements') in terms of their individual fitness and properness with the aim to determine whether the Applicant is collectively fit and proper to carry out the proposed activity and operate within the financial services sector.

2.4.1 Applicant Profile

The MFSA requests details on the **ownership and group structure** of the Applicant, as applicable. Such detail is requested in order to understand how the Applicant fits within the overall structure and assess the potential impact this structure may have on the Applicant³.

Additionally, Applicants would need to specify and disclose, where necessary: (i) their regulatory history, including where the Applicants had any application rejected or withdrawn from or by other regulatory Authorities; and (ii) any significant events and other due diligence matters relevant to the Authority.

2.4.2 Activity and Method of Operations

2.4.2.1 General

The MFSA assesses the information submitted by Applicants against a set of criteria stemming from EU and national law and in a manner appropriate to the authorisation requested. These include aspects relating to the intended activities and method of operations, including the business model and the associated risk profile, governance, compliance, risk, conduct, prudential, anti-money laundering and counter terrorist financing ('AML/CFT'), and information communications technology ('ICT').

2.4.2.2 Business Model

Applicants are required to demonstrate that their proposed business model supports the viability of the proposed activity. The MFSA assesses the respective situation of the Applicant holistically, whilst also taking into consideration the business environment. The Authority will seek to ensure that the business model and projections submitted are realistic, achievable, and sustainable.

³ Where applicable, Applicants shall refer to the [MFSA Shareholding Policy for Credit Institutions and Insurance Companies](#) and any other policies which may be issued by the MFSA from time to time.

The MFSA also assesses that the Applicant:

- i. has the appropriate organisational structure, capacity and resources, internal control framework, financial soundness as required by the respective regulatory frameworks.
- ii. has a proper understanding of the risks inherent to the business model being proposed and how such risks will be managed and monitored on an ongoing basis.
- iii. is able to conduct business and act in the best interest of their clients, by considering matters such as, *inter alia*, the Applicant's distribution channels, the adequacy of the requirements relating to product oversight and potential conflicts of interest, where applicable.
- iv. has adequate financial resource to meet its minimum capital requirements, where applicable.

2.4.2.3 Outsourcing

Applicants proposing to outsource any of its key functions to third-party service providers, even to members within the same group structure, would also need to carry out an assessment of this arrangement. In this respect, whilst indicating the relevant outsourcing details, the Applicant would need to indicate and provide sufficient evidence to the MFSA that the arrangement complies with the respective regulatory requirements and that it includes all the necessary controls to allow for effective monitoring. **It is noted that the responsibility to monitor key outsourced functions always rests with the Applicant once authorised.**

2.5 The Fitness and Properness Assessment

The MFSA expects that prior to proposing any Involvements, Applicants and Authorised Persons, or their Representatives where appointed and/or mandated by the regulatory framework, as applicable, should conduct their own fitness and properness assessment, including due diligence checks, to ensure that the proposed person/s are fit and proper for the role in relation to which they are being proposed.

These checks do not replace the checks conducted by the MFSA, but rather act as a first filter and an additional safeguard. In this respect, given its role as gatekeeper to the financial services sector, the MFSA conducts its own **Fitness and Properness Assessment** which also includes a rigorous due diligence process.

The Fitness and Properness Assessment is a crucial assessment carried out by the MFSA in determining whether the Applicants and their respective Involvements are suitable to enter the financial services sector. Given the assessment should be satisfied on an ongoing basis there may be instances where the Authority may be required to conduct a re-assessment of the initial assessment performed on the person.

As explained within the MFSA's [Guidance on the Fitness and Properness Assessments](#), the assessment relies on the satisfaction of four criteria, as follows:

i. Competence

It should be demonstrated to the MFSA that a person has an appropriate level of knowledge, professional expertise, and experience, both practical and professional, to perform his/her duties. The level of knowledge required would vary in accordance with the level of responsibility and the type of activity to be carried out.

Reference should be made to Title 3, Section 2 of the [Guidance on the Fitness and Properness Assessments](#).

ii. Reputation

It should be demonstrated to the MFSA that a person is of good repute and that they intend to act in an honest, ethical, and trustworthy manner. The assessment of reputation is twofold, an evaluation of: (i) integrity (historical reputation); and (ii) solvency.

Reference should be made to Title 3, Section 3 of the [Guidance on the Fitness and Properness Assessments](#).

iii. Conflicts of Interest and Independence of Mind

A person should be able to make sound, objective and independent decisions and judgements. Conflicts of interest may affect independence, and thus it may result that persons will not be considered suitable if there exists a conflict of interest which poses a material risk which is not possible to prevent, adequately mitigate or manage.

Reference should be made to Title 3, Section 4 of the [Guidance on the Fitness and Properness Assessments](#).

iv. Time Commitment

A person must be able to commit sufficient time to perform the function he/she is proposed for efficiently and effectively. Time commitment is assessed both quantitatively, through an assessment of the number of commitments held by a person, and qualitatively, by assessing the factors which determine the amount of time a person can dedicate to his/her function.

Reference should be made to Title 3, Section 5 of the [Guidance on the Fitness and Properness Assessments](#).

Upon initiating the Fitness and Properness Assessment, the respective due diligence processes on the Applicant and each of its Involvements, are carried out to determine whether (i) the information relating to the person is truthful, accurate and complete; and (ii) the person is of good repute. It is to be noted that such processes are also carried out on an on-going basis by the Authority.

2.6 Proportionality

Throughout the authorisation process, the MFSA may be guided by the proportionality principle, whilst still ensuring that Applicants meet the regulatory requirements prescribed in the relevant regulatory frameworks. Additionally, any application of the proportionality principle applied by the MFSA will

depend, *inter alia*, on whether this is permitted in the relevant framework as well as the nature, scale, and complexity of the Applicant.

In this respect, the authorisation process, the Authorisation Application Forms and the respective supporting documentation have been developed in line with the proportionality principle permitted in the relevant regulatory frameworks and in view of the nature, scale, and complexity of the Applicant's proposed business model.

2.7 Derogations and Waivers

To the extent permitted by the applicable regulatory framework, the Authority may, at its complete discretion, grant certain derogations and/or waivers in respect of certain regulatory requirements. The granting of a derogation and/or waiver is neither a right, nor is it automatic, and these requests would need to be supplemented by comprehensive and objective justifications as to why the said derogation and/or waiver is being requested and the mitigation measures that will be put in place by the Applicant to ensure that the same regulatory objectives are attained.

Applicants are also reminded that such derogations and/or waivers, if granted, are revocable and are issued with an applicable time frame within which any derogations and/or waivers that might be granted would need to be re-assessed.

3 How We Authorise

3.1 Overall Process

3.1.1 Authorisation Process

Following the merger of the authorisations teams into the respective sectoral supervisory functions, the authorisations process and all the sub-processes have been aligned and harmonised across all sectors to further ensure consistency in the MFSA’s approach in the authorisation processes of Applicants and Authorised Persons falling within the scope of the MFSA.

The authorisation process is undertaken by the respective sectoral supervisory function together with feedback from other cross-sectoral functions within the Authority, as applicable. Moreover, depending on the type of authorisation being sought and where required, other national and/or international competent authorities are also engaged. Indeed, an example of such collaboration is within the context of AML/CFT where the respective supervisory function liaises with the Financial Crime Compliance function and/or the Financial Intelligence Analysis Unit (‘FIAU’), as applicable, throughout the authorisation process, thereby ensuring that a holistic approach is taken to prevent and deter money laundering and terrorist financing within the financial system.

The authorisation process will depend on (i) the type of authorisation being sought by the Applicant, in terms of the applicable law; and (ii) its nature, scale and complexity and consists of four stages, as illustrated in Figure 3-1.

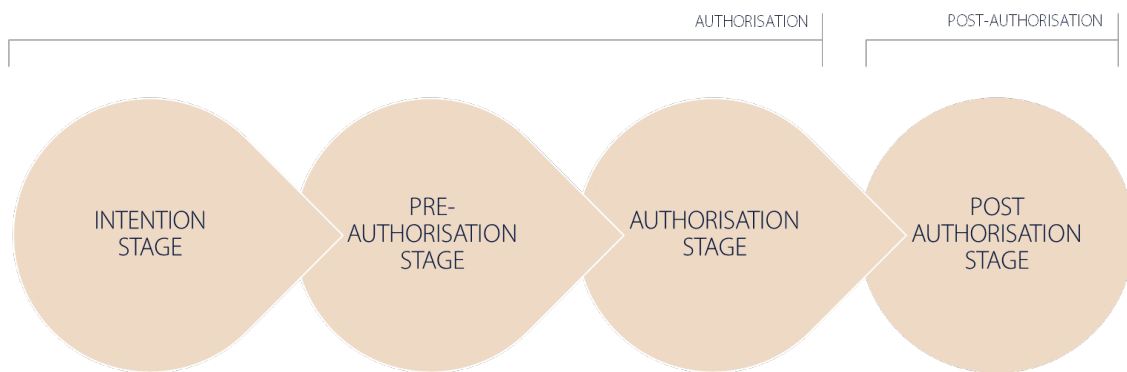


FIGURE 3-1: THE AUTHORISATION LIFECYCLE

Additionally, as identified in Section 2.2.3, simultaneous to the Authorisation Process, the MFSA also conducts the Fitness and Properness Assessment of respective Involvements, and the overall Applicant. In this respect, the process involves the respective sectoral supervisory function and the dedicated Due Diligence Function.

The Due Diligence Function has been purposely set up by the Authority to focus on the integrity of Applicants, Authorised Persons and their Involvements, which is a crucial element within reputation criterion of the Fitness and Properness Assessment as outlined in Section 2.2.3. Utilising a risk-based approach, this has been addressed through a three-tier approach: (i) onboarding checks - for new

Applicants and/or new Involvements; (ii) ongoing checks - to ensure rigorous standards are maintained through the course of time, (iii) and continuous individual name screening against sanction lists and adverse media, thus providing continuous updates on evolving circumstances.

3.1.2 Communication

The first point of contact for interested parties, Prospective Applicants and Applicants shall remain, always, with the respective supervisory function responsible for the processing of the Application as identified in Table 3-1. This notwithstanding, Applicants requiring a follow-up on their submission are required to liaise directly with the relevant supervisory function through the messaging system available on the LH Portal as specified in Section 3.3.1.3.

MFSa correspondence will be sent to the Prospective Applicant or Applicant and/or its Representative, as applicable. The MFSa retains the right to address or copy in the Applicant at any point during the authorisation process.

3.1.3 Information and Documentation

Throughout the Authorisation Process, the MFSa requests information and documentation. In this respect, while Prospective Applicants and Applicants should submit the information and documentation as specified in the Authorisation Forms, **the MFSa has the discretion, on the basis of the nature, scale and complexity of the respective Applicant and a risk-based approach, to request for:**

- i. further clarifications on any of the documents submitted;**
- ii. additional documentation as may be required; and**
- iii. meeting/s with any of the parties involved**

Prospective Applicants and Applicants are reminded that the Authority expects full transparency, openness, and honesty in providing the MFSa with all the required information, and shall to the best of their knowledge, provide information, which is truthful, accurate and complete. It is noted that such any failure with respect to meeting this standard of openness with the MFSa would be taken into consideration by the Authority as negatively impinging on the fitness and properness of the applicant and may also result in a breach of the applicable regulatory framework.

It is to be noted that any information and documentation submitted by the Applicant may be used by the Authority in discharging its regulatory responsibilities including being shared with other third-parties in the course of discharging those responsibilities, such as the European Central Bank ('ECB') and the FIAU.

3.1.4 Prerequisites

Prior to submitting a request for authorisation, persons wishing to submit such an authorisation request to the MFSa need to determine the type of authorisation required and assess whether the intended

financial service activity falls within scope of authorisation under a legislation currently in force in Malta and administered by the MFSA. In order to meet the applicable regulatory requirements, such persons are urged to seek professional advice; however, the ownership of the request for authorisation remains that of the said person once submitted.

In addition to seeking advice, the MFSA expects all interested parties to refer to the applicable information available on the MFSA's website and be knowledgeable of the relevant regulatory obligations set out in the applicable regulatory framework and the MFSA's [Risk Appetite Statement](#). The Applicant is also expected to take due account and, where applicable, make reference with any relevant EU Regulations and Directives, Commission Delegated Regulations, Regulatory Technical Standards and Implementing Technical Standards, as well as any Guidance Notes which may be issued by the European Central Bank ('ECB'), European Banking Authority ('EBA'), European Securities and Markets Authority ('ESMA'), European Insurance and Occupational Pensions Authority (EIOPA) and any other competent authority or international standard setting body.

Whilst the MFSA consistently aims to guide and provide feedback, where applicable, on the regulatory framework as well as its approach and processes, it is pertinent to note that it is not within its remit as an Authority to provide consultancy services or solutions on how the person should modify their proposal to meet the relevant requirements of the applicable regulatory framework and/or any requirements imposed by the MFSA. The onus shall always remain on the person to decide and implement solutions which adhere to the applicable requirements.

3.2 Intention Stage

3.2.1 Overall Process

During this stage, persons intending to apply for an authorisation by the Authority will be required to submit a Statement of Intent ('Intention') to the Authority. The Authority, in receipt of the Intention, at its sole discretion, may request the Prospective Applicant to: (i) provide further information and/or documentation; and (ii) to attend a preliminary meeting.

Should the Authority require a preliminary meeting, the request will be sent within **ten (10) working days** of receiving the Intention, as indicated in Annex 1 to this document. Such preliminary meetings are considered by the Authority as an important tool in the authorisation process, as they facilitate the overall process and will be scheduled depending on the nature, scale, and complexity of the Intention. It is to be noted that the MFSA will provide the necessary guidance to the Prospective Applicant to ensure the efficient functioning of the authorisation process.

Upon conclusion of its review of the Intention, the Authority may provide its no objection to the Prospective Applicant to submit their application. The Application should be submitted in line with the process outlined in Section 3.3 and within **forty (40) working days** of the communication from the Authority. In cases where an Application is not submitted within the stipulated time frame, the Authority retains the discretion, on a case-by-case basis, to consider the Intention withdrawn. Should the Prospective Applicant pursue the Intention after this period, the MFSA may also request for a re-initiation of the authorisation process.

In such cases where the MFSA considers that the proposal presented by the Prospective Applicant within the said Intention: (i) does not fall within the risk appetite of the MFSA; or (ii) is not yet mature enough to undergo the authorisation process, the Authority would guide the Prospective Applicant accordingly.

It should be noted that Prospective Applicants falling within scope and wishing to participate within the MFSA FinTech Regulatory Sandbox ('Sandbox') are required to follow the process specifically designed for this purpose and as established under [Rule 3 of the MFSA Act](#).

It is pertinent to note that during this Stage, the MFSA will not be reviewing the Application and that any discussion with the MFSA shall be limited to Statement of Intent as outlined within Section 3.2.2 of this Charter. The review of the Application will be carried out in the next stage of the process, as specified in Section 3.3 of this Charter. This review will also be subject to the payment of a non-refundable Application Fee which is payable upon submission of the actual application.

3.2.2 Statement of Intent

Whilst all the information requested at Intention Stage will also be captured in more detail within the respective Authorisation Application Forms and the respective supporting documentation, the purpose of this high-level Intention is for the Authority to guide the Prospective Applicant accordingly in terms of the applicable requirements and identify any potential concerns which could impede the overall outcome and efficiency of the authorisation process.

The Intention should be submitted in the form of a high-level presentation, and should include, *inter alia*:

- 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.

3.2.3 Submission of Intention

The Intention should be submitted to the respective Supervisory Function on the email addresses as indicated in Table 3-1.

Table 3-1: Authorisation Email Addresses of Respective Functions

Applicable Regulatory Framework	Supervisory Function	Email Address
Banking Act <i>(Chapter 371 of the Laws of Malta)</i>	Banking Supervision	aubankingFIs@mfsa.mt
Financial Institutions Act <i>(Chapter 376 of the Laws of Malta)</i>		
Consumers Affairs Act <i>(Chapter 378 of the Laws of Malta)</i>		
Investment Services Act <i>(Chapter 370 of the Laws of Malta)</i>	Securities & Markets Supervision	ausecurities@mfsa.mt
Financial Markets Act <i>(Chapter 345 of the Laws of Malta)</i>		
Insurance Business Act <i>(Chapter 403 of the Laws of Malta)</i>	Insurance and Pensions Supervision	auinsurancepensions@mfsa.mt
Insurance Distribution Act <i>(Chapter 487 of the Laws of Malta)</i>		
Retirement Pensions Act <i>(Chapter 514 of the Laws of Malta)</i>		
Trusts and Trustees Act <i>(Chapter 331 of the Laws of Malta)</i>	Conduct Supervision	autrustscsps@mfsa.mt
Company Service Providers Act <i>(Chapter 529 of the Laws of Malta)</i>		
Virtual Financial Assets Act <i>(Chapter 590 of the Laws of Malta)</i>	Virtual Financial Assets Supervision	vfa@mfsa.mt

Meanwhile, Prospective Sandbox Applicants wishing to participate within the MFSA FinTech Regulatory Sandbox ('Sandbox'), as established by [Rule 3 under the MFSA Act](#), shall submit their proposal by filling in the online Sandbox Proposal Form available on the [MFSA Sandbox webpage](#). Such Prospective Applicants are to make reference to the aforementioned rule, the respective [Guidelines](#) and [Frequently Asked Questions](#) when determining the applicable procedures and duties required to apply and participate within the MFSA FinTech Regulatory Sandbox.

3.3 Pre-Authorisation Stage

3.3.1 Overall Process

Following submission of Intention, Prospective Applicants will be asked to submit the respective Application to the Authority. Subsequently, the MFSA would then review the submitted documentation in terms of completeness both from a documentation and quality perspective and, if necessary, provide its feedback until such time that (i) the Applicant resolves any matters; and (ii) the MFSA determines that the Application is considered complete.

3.3.1.1 Authorisation Application Forms

Prospective Applicants should refer to Rule 4 under the MFSA Act to determine the applicable Applications. For Applications which are not specified in the Rule, the respective Applications and supporting documentation as stipulated in the respective regulatory framework should be submitted.

The MFSA will continue to publish new and updated Applications supporting the authorisation process and its sub-processes, as it may deem necessary. It is emphasised that all interested parties should monitor the MFSA website for any developments with regards to updates in any Application.

3.3.1.2 Application Submission

Prospective Applicants should submit the Application pack through the MFSA Licence Holder Portal ('LH Portal') by following the instructions available on the [LH Portal](#) and [Guidelines to the Authorisation Forms](#).

It is noted that where a regulatory framework specifies that the submission should be carried out by a Representative of the Applicant, the Application should be submitted to the Authority in accordance with the said framework.

3.3.1.3 Messaging System

As indicated in Section 3.1.2, following submission, the Applicant will be able to communicate with the Authority via the messaging system available on the LH Portal. All communication going forward regarding a particular Application and/or supporting document will be done through this system.

3.3.2 Submission Review

Once submitted, the MFSA reviews the Application and checks whether all the required documentation has been submitted to the MFSA together with the respective application fee.

It is noted that the MFSA shall not proceed with the authorisation process unless (i) all the required documentation has been submitted; and (ii) the non-refundable application fee has been paid in full. As specified in Annex 1 to this Charter, the MFSA will complete this step of the process within **five (5) working days** of the submission.

In the event that the MFSA establishes that the Application has not been submitted in full, the MFSA will liaise with the Applicant to identify what further submissions are required. The Applicant will be required to revert with the documentation and/or application fee within **twenty (20) working days** of the communication by the Authority. Should the Applicant fail to do so, the MFSA may consider the Application as having been withdrawn by the Applicant.

3.3.3 Quality Review

3.3.3.1 Overall Process

During this part of the process, the MFSA reviews the Application by taking into consideration the aspects outlined in Section 2 of this Charter and determines whether (i) there are any clarifications and/or matters that need to be addressed by the Applicant; and (ii) the submitted information is of sufficient quality to proceed with the authorisation process, and thus, considering the Application as complete.

When determining the above, it should be noted that the respective Supervisory Function responsible for the Application will liaise with other functions, as necessary, for their feedback. The Authority will also initiate the Fitness and Propriety Assessments of all the relevant parties. Therefore, apart from the comments to the Application, as identified above, the MFSA may also require further feedback on any matters arising because of these assessments, including their respective due diligence process.

The length of this process, and the respective timing commitments, are identified in Annex 1 of the Charter and depend on (i) the type of authorisation being requested as specified in the Annex; and (ii) the quality of the Application and therefore its completeness, as follows:

i. Complete Application

If the MFSA, upon reviewing the Application, determines that it is of sufficient quality and contains all the information required to proceed with the authorisation process, the MFSA will notify the Applicant that it shall proceed to the next Stage of the process.

ii. Incomplete Application

Should the MFSA determine that any of the information provided is not of sufficient quality, the Authority will provide comments indicating what clarifications and/or matters need to be addressed by the Applicant. Subsequently, the Applicant will be required to provide clarifications, submit additional documentation and/or revise the Application and any of the supporting documentation, where applicable, until all clarifications and matters are addressed,

and the Application is considered of sufficient quality to proceed to the next stage of the process.

Any revisions and additions to the documentation submitted as part of the original submission would need to be submitted to the Authority via the LH Portal. Meanwhile, any clarifications may be provided via the messaging system. The Applicant will need to provide feedback to the clarifications and/or address any matters within **fifteen (15) working days** whilst the MFSA would respond, if required, within **twenty (20) working days** of the respective communication. It is noted that should the Applicant fail to respond within the stipulated time frames, the MFSA may consider the Application as withdrawn.

This process is reiterated until such time that the Authority determines that (i) there are no further clarifications and/or matters that need to be addressed by the Applicant; and (ii) the Application is of sufficient quality to proceed to the next stage.

3.4 Authorisation Stage

3.4.1 Overall Process

Once the Pre-Authorisation Stage is concluded, the Application is finalised internally and submitted to the decision-making body with the respective recommendations and any applicable requirements which the Authority shall impose should the Application be recommended for authorisation. Once the decision has been taken, the MFSA will inform the Applicant whether it is considering granting or refusing the application for authorisation.

Similar to any other stage of the process, the MFSA may request further clarifications from the Applicants should this be requested by the decision-making body.

If the Authority assesses that certain regulatory requirements and/or Fitness and Properness Assessment criteria are still not being met, it can, at its discretion and to the extent permitted by the applicable regulatory framework, either refuse the Application for authorisation or grant the authorisation subject to such requirements as it may deem appropriate, depending on the specific circumstances of each Application.

3.4.2 Pre-Authorisation Requirements Letter

In the event that the MFSA is considering granting the said authorisation to the Applicant, the MFSA will issue a letter indicating its intention and any Authorisation Requirements applicable to the Applicant, as follows:

i. Pre-Authorisation Requirements

These requirements must be fulfilled prior to the granting of an authorisation by the MFSA. Applicants will be expected to address these requirements within a stipulated time frame as indicated in the said letter.

The Applicant may also request the MFSA to extend the time frame stipulated in the said letter. The Authority should be informed immediately upon the Applicant being aware of its intention and the request should be made prior to expiry of the said time frame.

Should the latter time frame expire without the Applicant having satisfied these requirements, the minded decision to authorise issued to the Applicant will cease to have effect.

ii. Post-Authorisation Requirements: Pre-Commencement of Business

These requirements should be satisfied following the granting of authorisation but prior to the Applicant commencing its business.

iii. Post-Authorisation Requirements: Post-Commencement of Business

Meanwhile, these requirements may be satisfied following the commencement of business by the Applicant and within any time frames stipulated by the Authority.

Applicants are reminded that, under no circumstances, does this communication grant the Applicant the authorisation to provide or perform a financial service and/or activity, or otherwise be construed as a confirmation that an authorisation would necessarily be eventually granted. An authorisation would only be granted to the Applicant subject to the satisfaction of the applicable Authorisation Requirements, as would be communicated in the MFSA's letter. Furthermore, this communication should not be used as a means for the Applicant to advertise, market, or issue any communications suggesting that it is authorised and/or use any wording that is likely to create confusion in that respect.

3.4.3 Proposed Refusal to Grant Authorisation

Should the MFSA issue a proposed refusal to grant authorisation, the Authority will provide (i) the basis upon which the decision has been taken; and (ii) the opportunity for the Applicant to provide its representations identifying why the Authority should reconsider its proposed refusal to grant authorisation. The MFSA may also request a meeting with the Applicant to discuss this matter.

Applicants should also note that providing information to the Authority, which is false inaccurate or misleading, may be a criminal offence under the applicable regulatory framework as well as may be considered negatively by the MFSA and may lead to, *inter alia*, the refusal of an Application.

3.4.4 Granting of Authorisation

Once Pre-Authorisation Requirements have been fulfilled to the satisfaction of the Authority, the authorisation is granted by the MFSA by the issuance of an **Authorisation Letter** and a **Certificate of Authorisation**, which are issued in terms of the applicable regulatory framework administered by the Authority.

It should be noted that the Post-Authorisation Requirements, as identified above, will also be specified together with the Authorisation Letter and Certificate of Authorisation.

3.4.5 MFSA's Financial Services Register

Once Applicants are authorised, hereinafter referred to as 'MFSA Authorised Persons', they are included within the MFSA [Financial Services Register](#) ('FSR'). The FSR provides visibility and information to both the industry and consumers on MFSA Authorised Persons and includes the identification and contact details of the said person, together with the authorisation type and its respective details such as the services and/or activity, classes and/or instruments, as well as the type of clients that can be serviced by the person, as applicable.

3.5 Post-Authorisation Stage

During this stage, the Authority will (i) monitor whether the Post-Authorisation Requirements are being satisfied; and (ii) initiate the respective supervisory processes. Any changes to the initial authorisation granted by the Authority are also handled during this stage and should be communicated to the Authority as soon as possible.

3.5.1 Post-Authorisation Requirements

As specified in Section 3.4.2, an authorisation granted by the MFSA can be made subject to certain Post-Authorisation Requirements that would need to be satisfied by the Authorised Person, within a stipulated time, either at pre-commencement of business or at post-commencement of business. Such requirements may also take the form of limitations on the Authorised Person, in terms of the range of services/ type of clients that can be provided/serviced and/or to its Involvements.

Adherence to and ongoing internal monitoring in relation to such Post-Authorisation Requirements remains the primary responsibility of the Authorised Person. These requirements must be embedded and catered for within the Authorised Person's relevant processes, policies, and procedures, as well as in its compliance monitoring programme, where applicable. It is the responsibility of the Authorised Person to immediately report to the Authority on any difficulties encountered in implementing any of these requirements.

3.5.2 Post-Authorisation Supervisory Interactions

Following the issue of an authorisation, and without prejudice to any other powers of the Authority in terms of the applicable regulatory framework, the Authority may require the holding of one or more post-authorisation supervisory interaction/s with the Authorised Person. The need for this meeting will be assessed on a case-by-case basis, depending, *inter alia*, on the sector, the nature, scale, and complexity of the Authorised Person, or on other particular circumstances. The Authority may resolve to hold a virtual or physical interaction with the Authorised Person. It is expected that such interactions would be held between **6 to 12 months** following the granting of an authorisation. *This notwithstanding, the MFSA may require earlier and more frequent updates for certain Authorised Persons on the basis of their nature, scale and complexity.*

The purpose of these post-authorisation supervisory interactions will be mainly the following:

- An Authorised Person may be asked to provide a presentation on its ongoing operations/ business, as well as how business is developing in relation to the plans and projections as presented to the MFSA during the authorisation process;
- An Authorised Person may be asked to submit or make available certain key documentation, depending on the type of authorisation granted;
- Where applicable, an Authorised Person may be asked to provide an update on any Post-Authorisation Requirements imposed by the Authority at the time of authorisation;
- The Authorised Person may be asked to provide an update to the MFSA and, where applicable, provide supporting documentation on the operations and performance of its governance structure including the management body, internal committees and control framework and/or key functionaries.
- Whilst it remains, at all times, the responsibility of the Authorised Person to ensure compliance with the relevant rules and regulations, MFSA officials will provide supervisory feedback and will communicate the Authority's expectations to the Authorised Person.

These post-authorisation supervisory interactions will be led by the respective supervisory function/s, together with any other MFSA officials, as the Authority deems appropriate.

4 Authorisation Time Commitments

An effective and timely authorisation process is highly dependent on the **comprehensiveness**, **readiness**, and the **quality** of the application as well as the extent of **responsiveness** and **cooperation** of the Applicant in relation to issues raised and requests made by the MFSA throughout the authorisation process, as indicated in Section 3 of this Charter.

The MFSA is conscious that timing is of the essence for Applicants, and, as explained in the introductory part of this document, the MFSA is committed to providing greater certainty and transparency with regards to the turnaround of its authorisation processes. This is coupled with the MFSA's commitment to conducting robust assessments and rigorous checks, with a view to ensuring that the strength of the local financial services sector is not weakened, and that high standards of conduct and management are maintained.

Complementing the statutory time frames established within the regulatory frameworks which stipulate the time limits within which the Authority should grant an authorisation or otherwise, the MFSA is also establishing certain time frames which will be applicable throughout the authorisation process.

4.1 New Applications

4.1.1 Overall Time Commitments

In so far as the time commitments do not conflict with any provisions in the applicable regulatory framework, the Authority is committed to meet, to the extent possible, the time frames as indicated in **Annex 1 to the Charter** in respect of **new Applications**⁴ for authorisation in terms of any special law administered by the MFSA.

Furnishing the Authority with incomplete or inaccurate information and failing to provide the Authority with the required clarifications and information within the stipulated time frames, may lead to delays in the overall processing of the Application.

Furthermore, at any point in time during the authorisation process, in the event of failure by the Applicant to respond within **four (4) months** from the Authority's communication, the Authority shall inform the Applicant providing for an additional **one (1) month** time frame for such feedback to be received. In the absence of receipt of such feedback within the indicated time frame, the Authority may consider the Application as withdrawn. When an Application is considered as withdrawn and the Applicant wishes to pursue the process, the Applicant would need to re-initiate the process, *inter alia*, including the submission of a new intention, application and application fee.

Failure of an Applicant to properly pursue its Application and to provide the Authority with the required response/ information/ documentation within the indicated time frames, may also lead to the Authority

⁴ These Applications are specified in Annex 1 of Rule 4 of the MFSA Act. Additionally, these time commitments exclude 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.

determining the Application on the basis of the information available to it at that point in time which, in view of incomplete information, may result in a refusal of authorisation.

While the Authority will strive to meet the time commitments, circumstances may arise where it may not be possible to do so, for example, where:

- issues related to Fitness and Properness Assessments arise;
- legal issues arise;
- the Applicant proposes complex ownership structures;
- the business model is complex and/or innovative by nature (this would typically be communicated by the Authority to the Applicant upon submission of the Application);
- significant changes are made by the Applicant to the proposed business model, or the proposed Involvement, or other material issues arise during the authorisation process; and
- the information provided within the Application is of insufficient quality.

Where the relevant time commitments would not apply, Applicants would be notified accordingly.

To ensure greater transparency in the authorisation process the Applicant will have visibility on the state and updates of the process on the LH Portal. This notwithstanding, the Authority will also be contacting Applicants through the messaging system on any developments.

4.1.2 Extensions

Any extensions to the time frames applicable to Prospective Applicants and Applicants stipulated in the Authorisations Charter shall require the approval of the Authority. In this respect, the person is to notify the MFSA immediately and shall submit a justifiable explanation as to why the said extension is being sought.

4.2 Appointment of Involvements previously approved by the MFSA

The Authority is also committed to improving further the efficiency and robustness of the internal processes relating to the appointment of Involvements.

In consideration of the Fitness and Properness Assessment as presented in Section 2.3.3 of this Charter, and further to the above, the Authority is hereby providing the industry a time commitment with regards to the processing time relating to the appointments of persons already holding a regulated approved position by the MFSA.

The Authority is committed, to the extent possible, to process within a period of **fifteen (15) working days**⁵ proposed Involvements satisfying the following:

⁵The indicated time frame of fifteen (15) working days applies to where an individual is being proposed to hold a position with another Authorised Person, not proposed to hold a function with an Applicant. In case of the latter, the timing of the respective authorisation process would apply, notwithstanding that such individuals would have already been subject to the Fitness and Properness Assessment by the MFSA in relation to another Authorised Person.

- individuals proposed as an Involvement with an MFSA Authorised Person to occupy the same type of function in relation to an existing Involvement which they currently hold with another MFSA Authorised Person holding the same type of authorisation;

and

- individuals who have undergone the MFSA's due diligence process,

The indicated time frame may not apply in certain circumstances, *inter alia*, including:

- where the proposed appointment goes against any regulatory framework⁶;
- additional checks are required to be undertaken by the MFSA in relation to any of the Fitness and Properness Assessment criteria, as applicable and where warranted⁷;
- where an interview is requested by the Authority, where warranted;
- the Personal Questionnaire submitted is not complete;
- the proposed individual has issues with respect to any of the Fitness and Properness Assessment criteria, including time commitment when the said person has multiple Involvements;
- the appointment is not in line with the Authorisation Requirements imposed by the MFSA on the Authorised Person upon the granting of its authorisation;
- the approval of other Competent Authorities would need to be sought⁸; and
- enhanced due diligence is required.

⁶ By way of example, where the role applied for with an Applicant/Authorised Person requires independence (and the person would already be holding another role with the same person).

⁷ By way of example, where a portfolio manager employed with one asset manager which is authorised to trade certain instruments would be proposed with a similar type of asset manager, but which is authorised to trade different financial instruments. Another example is for instance, where there are different lines of insurance business, such as long-term business of insurance, as opposed to short term business of insurance.

⁸ By way of example, with reference to directors of credit institutions, the European Central Bank's approval would need to be sought by the MFSA.

Annex 1: Authorisation Process – New Application Time Commitments

Stage	Type	MFSA Time Frame	Trigger of MFSA Time Frame	Applicant Time Frame	Trigger of Applicant Time Frame	
Intention Stage	Confirmation of Receipt	2 working days	From submission of Intention			
	Scheduling of Meeting <i>(where applicable)</i>	10 working days	From receipt of the Intention			
Pre-Authorisation Stage	Submission of Application	Application Submission following clarifications		40 working days	From receipt of the communication	
	Submission Review	Verification that all required documents with the Application have been submitted		5 working days	From receipt of the submission	
		Submission of any missing documents with the Application			20 working days	From receipt of the communication
	Quality Review	Initial Application Review Feedback		<i>Refer to time frame applicable to Sector</i>		
		Banking Act (Chapter 371 of the Laws of Malta)	Credit Institutions	6 weeks	From submission review	3 weeks
Credit Agreements for Consumers relating to Residential Immovable Property Regulations		Credit Intermediaries & Tied Credit Intermediaries	6 weeks			
Financial Institutions Act (Chapter 376 of the Laws of Malta)		Financial Institutions	6 weeks			
Investment Services Act (Chapter 370 of the Laws of Malta)	Investment Firm authorised to receive and transmit orders, and/or provide investment advice in relation to one or more instrument and/or place instruments without a firm commitment basis but not to hold or control clients' money or customers' assets	4 weeks				

Annex 1: Authorisation Process – New Application Time Commitments

Stage	Type	MFSA Time Frame	Trigger of MFSA Time Frame	Applicant Time Frame	Trigger of Applicant Time Frame		
Quality Review	Initial Application Review Feedback		<i>Refer to time frame applicable to Sector</i>				
	Investment Services Act (Chapter 370 of the Laws of Malta)	Investment Firm authorised to provide any investment service other than those outlined in the preceding Investment Firm type	6 weeks	From submission review	3 weeks	From receipt of the communication	
		Custodian / Depositories	6 weeks				
		Tied Agents under MIFID	3 weeks				
		Recognised Fund Administrator	4 weeks				
		Recognised Incorporated Cell Company					
		Collective Investment Schemes	Self-Managed				6 weeks
			Third Party Managed				4 weeks
	Additional Sub-Funds		3 weeks				
	Central Securities Depositories Regulation ⁹	Central Securities Depositories	6 weeks				
Financial Markets Act (Chapter 345 of the Laws of Malta)	Regulated Market	6 weeks					

⁹ Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 Text with EEA relevance

Annex 1: Authorisation Process – New Application Time Commitments

Stage	Type	MFSA Time Frame	Trigger of MFSA Time Frame	Applicant Time Frame	Trigger of Applicant Time Frame	
Quality Review	Initial Application Review Feedback		<i>Refer to time frame applicable to Sector</i>			
	Insurance Business Act (Chapter 403 of the Laws of Malta)	(Re) Insurance Undertakings	6 weeks	From submission review	3 weeks	From receipt of the communication
	Insurance Distribution Act (Chapter 487 of the Laws of Malta)	Insurance Intermediaries	4 weeks			
		Tied Insurance Intermediaries				
		Ancillary Insurance Intermediaries				
	Retirement Pensions Act (Chapter 514 of the Laws of Malta)	Retirement Scheme Administrator	6 weeks			
		Retirement Schemes	6 weeks			
		Retirement Funds	6 weeks			
		Registered Custodians and Investment Managers	4 weeks			
	Trusts and Trustees Act (Chapter 331 of the Laws of Malta)	Trustees and Fiduciaries	4 weeks			
	Company Service Providers Act (Chapter 529 of the Laws of Malta)	Company Service Providers	5 weeks			
	Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)	VFA Agents	4 weeks			
		VFA Service Provider - Class 1	5 weeks			

Annex 1: Authorisation Process – New Application Time Commitments

Stage		Type		MFSA Time Frame	Trigger of MFSA Time Frame	Applicant Time Frame	Trigger of Applicant Time Frame
	Quality Review	Initial Application Review Feedback		<i>Refer to time frame applicable to Sector</i>			
		Virtual Financial Assets Act (Chapter 590 of the Laws of Malta)	VFA Service Provider - Class 2	5 weeks	From submission review	3 weeks	From receipt of the communication
			VFA Service Provider - Class 3	6 weeks			
			VFA Service Provider - Class 4	6 weeks			
Pre-Authorisation and Authorisation Stage	Applicant replies to feedback provided by the MFSA				15 working days	From receipt of MFSA feedback	
	MFSA replies to feedback provided by the Applicant		20 working days	From receipt of Applicant's feedback			

5 Conclusion

This document provides an overview of the Authority's authorisation approach and provides Applicants, and Prospective Applicants, greater certainty on the expected turnaround time frames in respect of certain Applications and the appointment of individuals.

The MFSA believes that informing Prospective Applicants about what it is expected out of them when submitting an Application and throughout the authorisation process is valuable to Applicants in order for them to be aware of the standards expected, the approach taken by the Authority in reviewing Applications and, in particular, to enhance the efficiency of the authorisation process.

The above is intended to address several recommendations and industry feedback that the MFSA receives from time to time, as part of the ongoing engagement with the industry.

Whilst this publication is intended to guide Applicants in the process of preparing and submitting Applications, it is not to be treated as an exhaustive listing of all the requirements and factors that would need to be satisfied or taken into consideration for the purposes of applying for an authorisation. This document is neither intended to be comprehensive, nor to replace or override any applicable regulatory provisions, regulations and MFSA Rules.

Furthermore, this document does not constitute legal advice, nor does it seek to interpret relevant regulatory frameworks. It also needs to be considered together with other guidance issued from time to time by the Authority.

The MFSA remains open for suggested improvements to its approach and invites stakeholders to continue providing feedback for consideration.

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