

30 June 2021

Publication of the MFSA's Authorisation Charter, Processes and Application Forms

1 Background

Building on its ongoing efforts to enhance its supervisory and regulatory approach, the Malta Financial Services Authority ('MFSA') has initiated a re-evaluation and, where necessary a re-engineering, of the Supervisory Cycle and its underlying processes. This aims to ensure longer-term efficiencies and effectiveness, as well as consistency across all sectors, where this is necessary.

As part of its implementation plan, the MFSA started addressing the first step in the Supervisory Cycle - the Authorisation Process. This includes any process relating to: [i] new authorisations; and [ii] changes to existing authorisations.

In this respect, the MFSA is hereby launching [i] the MFSA's Authorisation Process - Service Charter, which is underpinned by the implementation of a revised authorisation process; [ii] Rule 4 under the MFSA Act (Chapter 330 of the Laws of Malta); [iii] a new dedicated authorisations webpage; and [iv] revised Application Forms and supporting documentation required throughout the entire Authorisation process.

2 A General Update

This section of the circular seeks to provide an update on developments which followed the [Circular](#) published on the 23 March 2020.

2.1 Collaboration and the process and artefacts re-evaluation journey

Over the past year, the MFSA has observed that the merger of the sectoral authorisations teams into their respective supervisory functions has led to a more consistent regulatory approach and enhanced collaboration in the authorisation and supervisory processes, throughout the life cycle of authorised persons.

To coordinate cross-sectoral authorisation matters such as processes and procedures, enhancements, and approaches, the MFSA has set up an internal Authorisation Forum composed of the team leaders of each respective sectoral teams responsible for the processing of requests for authorisation under the applicable regulatory frameworks ('Authorisations Teams'). The Authorisation Forum serves as a cross-sectoral collaborative platform to ensure consistency, drives the internal discussions relating to

the standardization and harmonization of approaches, and serves as the key validator to all proposed enhancements put forward by specialist teams responsible for the MFSA's process and artefacts reengineering.

2.2 Due Diligence

Persons seeking to perform a key function within prospective applicants and/or MFSA authorised persons, also termed as prospective Involvements, should undergo a due diligence process as part of the reputation assessment within the wider MFSA Fitness and Propriety assessment. The recently established Due Diligence Function acts as an essential control towards safeguarding the continued integrity of the financial services sector and acts a safety net, fostering continued consumer protection and trust.

As of 2020, the Due Diligence Function has been operating as a centralised hub, for the review of individual Personal Questionnaires, independent of the Authorisations Teams. This was implemented so as to develop a consistent and robust risk-based methodology for the performance of due diligence checks on the integrity of applicants from across the financial services field. This ensures that probity checks are conducted at the highest levels and reinforces the MFSA's role as gatekeeper to the financial services sector in Malta. The Function is also responsible for conducting ongoing reviews to ascertain the continued good standing of Involvements approved by the Authority.

The due diligence assessment is risk-based and multi-tiered, commencing with identity verification checks and augmented with a blend of intelligence-based, open-source as well as other regulatory background screening. In certain cases, enhanced due diligence checks may be required with specially trained staff carrying out further in-depth analyses. A dedicated team carries out ongoing due diligence as well as name screening in liaison with other Functions of the MFSA as well as other regulatory bodies. Ad-hoc activities such as the vetting of prospective applicants falling under the Highly Qualified Persons ('HQP's') regime are also carried out. The ongoing due diligence regime consists of the refreshing of previously conducted checks on a risk-based approach, having taken into consideration the prevalent risks pertaining to the sector and MFSA's risk appetite.

The Authority also makes use of its cooperation agreements with local and foreign regulatory bodies to source information and confirm understanding. The Due Diligence Function has made significant advances and secured closer ties with other regulatory bodies, locally and internationally. It has procured tools to screen individuals more effectively and has continued to reinforce the robustness of name screening and risk-based ongoing due diligence. The MFSA's ambition is to leverage its new streamlined approach and develop an internal intelligence hub that can be tapped into by supervisory and enforcement functions.

3 Authorisation Process - Service Charter

The [Authorisation Process - Service Charter \('Authorisations Charter'\)](#): [i] explains and provides guidance on the MFSA's revised authorisation process; [ii] identifies the Authority's expectations in terms of applicable regulatory standards; and [iii] sets out the timeframes applicable to the MFSA, Prospective Applicants and Applicants for the effective conclusion of the authorisation process.

4 Rule 4 under the MFSA Act – Authorisations

Issued under Article 16 (2) of the MFSA Act, [Rule 4 – Authorisations](#) identifies the types of authorisations falling within scope of the revised processes and forms and provides for the applicable regulatory requirements which should be followed throughout the authorisation process.

5 Authorisation Process Reengineering

Following the merger of sectoral authorisations into their respective 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.

5.1 Authorisation Process

Whilst further detail will be provided within the Authorisations Charter and stipulated within Rule 4, the authorisation process will consist of four stages, namely: [i] the Intention Stage; [ii] the Pre-Authorisation Stage; [iii] the Authorisation Stage; and [iv] the Post Authorisation Stage.

i. Intention Stage

During this stage, Prospective Applicants will be required to submit their intention to the MFSA. Following its assessment, the MFSA will provide the necessary guidance to the Prospective Applicant to ensure the efficient functioning of the authorisations process.

ii. Pre-Authorisation Stage

Subsequent to the Intention Stage, Applicants will be asked to submit the respective Authorisation Application Form together with any supporting documentation (hereinafter collectively referred to as 'Application Forms') via the Licence Holder ('LH') Portal. The MFSA would then review the submitted documentation in terms of completeness both from a submission and quality perspective and, if necessary, provide its feedback until such time that the Applicant resolves any matters, and the MFSA determines that the Application is considered complete.

It should be noted that the MFSA will utilise the messaging system available on the LH Portal to communicate with the Applicant and that the Applicant will constantly be informed on the status of the authorisation process as this will be indicated on the said Portal.

iii. Authorisation Stage

The Application together with all supporting documentation are then presented, internally, for decision making, together with the respective recommendations. A decision is then taken as to whether an authorisation is to be granted or otherwise.

iv. Post Authorisation Stage

This stage encompasses several sub-processes, which may occur throughout the lifecycle of an authorised person, *inter alia* including changes to the authorisation granted by the Authority and/or information relating to the authorised person, and the surrendering of authorisations.

6 MFSA Authorisation Webpage

With the aim of simplifying and enhancing the user experience of Prospective Applicants, Applicants and interested parties, the new dedicated Authorisation webpage on the MFSA website will provide all the information pertaining to authorisations processes on one page together with all the applicable Application Forms required to apply for authorisation under a specific financial services framework administered by the MFSA. In this respect, the link to the new Authorisation webpage is:

<https://www.mfsa.mt/firms/authorisations/>

7 Authorisation Forms & Guidelines

7.1 Objectives

The Authorisation Application Forms and the respective supporting documentation have been revised to achieve the following objectives:

i. Harmonisation

The Application Forms are harmonised across all sectors in branding, structure and requirements whilst also catering for sector-specific considerations, thus ensuring consistency in the approach of the MFSA towards similar requirements.

ii. Structure

The Application Forms are structured in terms of layout and data requirements. In this respect, while detailed responses will be required in certain instances, the majority of data requirements are in the form of structured fields with pre-defined values.

iii. Comprehensiveness

The new Authorisation Application Forms, together with all the applicable supporting documentation, include all the elements required for the MFSA to proceed with the authorisation process. The business plan (programme of operations, scheme of operations, etc.) has also been integrated within the respective forms.

iv. Enhanced User Experience

Further to the objectives mentioned above, these revised Application Forms, together with the revised authorisation process, should enhance the overall user experience as the Applicants are guided throughout the application process and its supporting framework.

7.2 Scope

These Application Forms will be applicable for persons applying for authorisation with the MFSA ('Applicants') as identified in Annex 1 to the Rule.

Complementing the initial set of authorisation forms, it is also envisaged that the MFSA will continue to publish additional forms to cater for processes relation to the Post Authorisation Stage.

7.3 Structure

The new Authorisations Forms have been restructured and follow the same structure as illustrated in Figure 7-1. This notwithstanding, certain Sections may not be applicable to certain Sectors, as specified within the respective Authorisation Application Form.

Interested Parties should refer to the [Guidelines to the Authorisation Forms](#) when completing and submitting their Application.

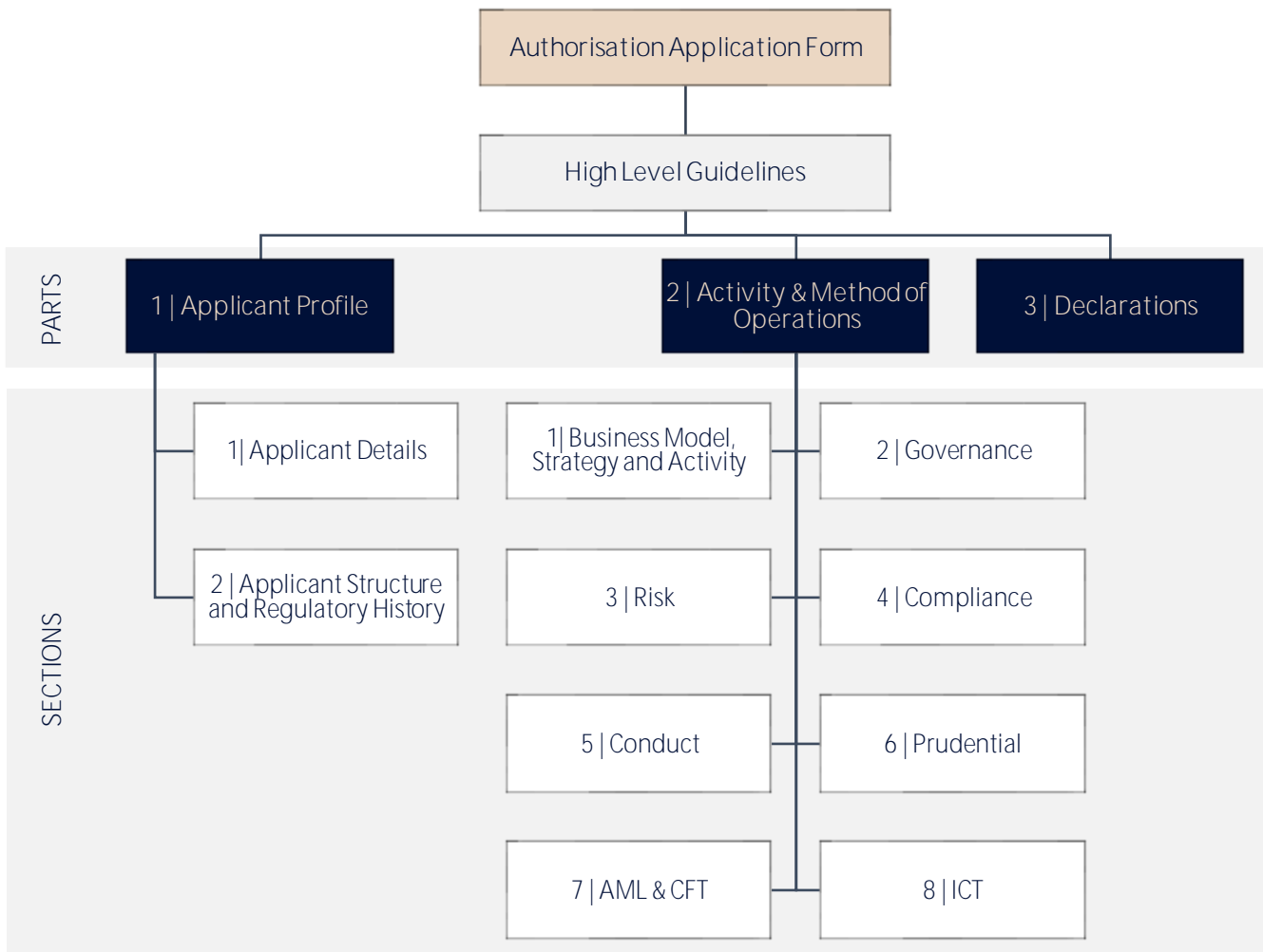


FIGURE 7-1: Structure of Authorisation Application Forms

7.4 Submission

The MFSA will only be considering Applications for authorisation made through the [LH Portal](#). Prospective Applicants are to proceed to initiate the submission, after logging in to the LH Portal, and subsequently selecting the respective type of Application Form they wish to submit. Further instructions on the submission process are available on the LH Portal and Guidelines to the Authorisation Forms.

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

7.5 A step in the MFSA's journey

The new Application Forms should not be viewed as an end-state, but as a step in the MFSA's transformation journey. The MFSA is committed to continue investing in building its technological capacity to increase efficiencies and reduce the regulatory burden on applicants and authorised persons.

8 Transitory Period

It should be noted that the MFSA will continue to accept submissions by Applicants using the previous application forms until 31 August 2021. However, submission of such application forms via the LH Portal will be mandatory as of 5 July 2021, onwards.

Access to the previous Application Forms, unless not falling within scope of this update, will remain available on the MFSA website until 15 July 2021. Prospective Applicants and Applicants requiring the template of the previous application form for whatever reason following the aforementioned date are requested to contact the Authority through the respective Supervisory function handling that type of authorisation.

As from 1 September 2021, only new applications will be accepted by the MFSA, with continued submission through the LH Portal.

9 Further Updates and Queries

Further updates and developments on the authorisations will be made public on: <https://www.mfsa.mt/firms/authorisations/>.

Queries in relation to the above should be addressed to email address specified in Table 8-1.

Table 8-1: Authorisation Email Addresses of Respective Functions

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

10 Conclusion

The MFSA reiterates its commitment towards continuing its path for providing a more transparent and efficient authorisation process, whilst ensuring that regulatory standards are always maintained.

This effort form part of the MFSA's work on the entire Supervisory Cycle and the development of the necessary foundations which will enable it to enhance its legislative frameworks and adopt the required systems upon which the MFSA may build the supervisory and regulatory approach of tomorrow.