

19 July 2021

## Circular on the updates effected to Part B of the Investment Services Rules for Alternative Investment Funds

### 1. Purpose

The Authority is today publishing an updated version of Part B of the Investment Services Rules for Alternative Investment Funds with the intent of: i) aligning and reflecting a change that resulted from the amendments effected to the MFSA Notified AIF regulatory framework (as communicated on the 24 June 2021), ii) clarifying a minor provision in this Rulebook that required updating, in line with a previous change in policy stance taken by the MFSA (as communicated on the 3<sup>rd</sup> July 2020).

The purpose of this Circular is to provide an overview of the specific changes to the Rulebook that are being affected in this regard.

### 2. Revisiting of the MFSA Notified AIF Regime

By means of the [Circular](#) issued on 24 June 2021, the Authority informed the industry of the publication of a revised version of the Notified Alternative Investment Fund ('NAIF') Rules, following a holistic review of this regulatory framework which has been undertaken by the MFSA in the previous months.

As part of such changes, the possibility for existing licensed collective investment schemes to request the conversion into Notified AIFs has been introduced. Such conversion is subject to certain requirements to be satisfied by the governing body of the scheme prior to the submission of the NAIF Notification Form by the prospective AIFM.

The requirements applicable to existing licensed Alternative Investment Funds being converted to a Notified AIF are therefore now being fully set out in the updated version of the Rulebook, as further highlighted in paragraph 4 below.

### 3. Fitness and Propriety Assessment of Committee Members involved with Investment Services Licence Holders and Collective Investment Schemes

In terms of the [Circular](#) issued by the Authority on 3 July 2020, individuals being appointed as Committee Members and/or Valuation Officers in relation to Investment Services Licence Holders ('ISLHs') and self-managed Collective Investment Schemes ('CISs'), are no longer required to submit a Personal Questionnaire ('PQ') Form, with the exception of Committee Members who – on an

individual or collective basis – bear the responsibility for the service or activity being provided. Further to this change, the Terms of Reference document regulating the functioning of the Committee no longer need to be approved by the MFSA, but from the date of the Circular onwards, it should be submitted to the Authority for notification purposes only.

To this effect, Part B of the AIF Rulebook has been amended to fully reflect and incorporate this MFSA policy position, further to the changes already announced and thoroughly detailed in the abovementioned Circular.

#### 4. Summary of the amendments to Part B, AIF Rulebook

SLC	Amendments
1.07(v) (new)	The SLC has been expanded to set out the confirmations and documents which the governing body of the Scheme shall submit to the MFSA in order to apply for the conversion of the AIF into a NAIF.
8.26	The requirement for the MFSA's approval of the Terms of Reference of the Investment Committee – and any changes thereto – has been removed and replaced with an obligation to notify and submit a copy of the updated version of such document to the Authority.
8.32	Reference to the MFSA's approval of Investment Committee members, and therefore the submission of a Personal Questionnaire with respect to such roles is removed, whilst the meaning of 'Portfolio Manager' is further clarified to include any person(s) in charge of the investment management of the scheme, whether he/she is a committee member or otherwise.  Furthermore, references to outdated documents requested or procedures implemented by the Authority with respect to the due diligence assessment (e.g. the Competency Form) have been removed and the paragraph updated accordingly.
8.33	The Rule has been expanded to set out the requirement for a notification to the MFSA with respect to the appointment and departure of officials which are not subject to the Authority's approval.

#### 5. Contact

Any queries regarding the above should be directed to the Securities and Market Supervision Function (e-mail: [ausecurities@mfsa.mt](mailto:ausecurities@mfsa.mt)).