

23 August 2021

Circular on the updates made to the Investment Services Rules for Investment Services Providers and Collective Investment Schemes

This circular is addressed to Fund Managers and Collective Investment Schemes falling within the scope of the Securities & Markets Supervision Function.

1. Introduction

As part of its ongoing work, the Authority has updated certain sections of its rulebooks in line with regulatory updates at European level, as follows.

A. Update to the rulebooks in view of the revised [ESMA Guidelines on stress test scenarios under the MMF Regulation](#)

The MFSA updated the hyperlinks to the ESMA Guidelines on stress test scenarios under the MMF Regulation, cross referring to the latest version published by ESMA on 29 June 2021. MMFs or managers of MMFs should comply with the ESMA Guidelines on stress test scenarios under the MMF Regulation when carrying out stress testing in accordance with Article 28 of the MMF Regulation.

- i **SLC 7.04** of Part BII of the Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as **UCITS Management Companies** (section 7: Supplementary Licence conditions applicable to UCITS Manager managing MMFs)
- ii **SLC 13.02** of Part BIII of the Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as **Alternative Investment Fund Managers** - (section 13: Supplementary Licence conditions applicable to AIFMs managing MMFs)
- iii **SLC 8.44** of Part B of the Standard Licence Conditions Standard applicable to **Alternative Investment Funds** – (section 8 - Supplementary Licence conditions applicable to Self-managed AIFs: Permanent Risk Management Function)
- iv **SLC 25.03** of Part BII of the Standard Licence Conditions Standard applicable to **Malta based Retail UCITS Collective Investment Schemes** (section 25 - Supplementary Licence Conditions applicable to Schemes set up as Money Market Funds)

B. Updates to the Rulebooks in view of the [ESMA Guidelines on Article 25 of Directive 2011/61/EU](#)

SLC 8.90 of Part B of the Standard Licence Conditions Standard applicable to **Alternative Investment Funds** and **SLC 8.01** of Part BIII of Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as **Alternative Investment Fund Managers**, have been revised and updated by way of a cross reference to ESMA Guidelines on 25 of Directive 2011/61/EU (**“the AIFMD”**).

An additional provision (**SLC 8.95** of Part B of the Standard Licence Conditions Standard applicable to **Alternative Investment Funds** and **SLC 8.06** of Part BIII of Standard Licence Conditions applicable to Investment Services Licence Holders which qualify as **Alternative Investment Fund Managers**), has also been introduced to cater for cases when an AIFM managing leveraged AIFs does not comply with any measure(s) or restriction(s) imposed by the MFSA in accordance with Article 25(3) of the AIFMD. This enables the MFSA to take additional steps against AIFMs managing leveraged AIFs to further safeguard the stability and integrity of the financial system or to avoid the disorder of financial markets.

C. Update to the rulebooks in view of the [ESMA Guidelines on Marketing Communications](#)

SLC 3.14 of Part BIII of the Investment Services Rules applicable to **Alternative Investment Fund Managers** has been updated to properly reference the ESMA Guidelines on Marketing Communications.

Licence holders are to note that the ESMA Guidelines on Marketing Communications will also be applied to UCITS through an update to the Conduct of Business Rulebook which will be made shortly.

Contact

Any queries should be directed to the Securities and Market Supervision function for attention of the Funds Team (funds@mfsa.mt).