

02 September 2021

Conduct of Business Rulebook Revisions

Reference is made to the Conduct of Business Rulebook ('Rulebook') originally issued by the Malta Financial Services Authority ('the Authority') on 20 December 2017. A copy of the revised Rulebook can be found on the Authority's website and accessed [here](#).

Requirements Applicable to the Investments Sector

Reference is made to the [MFSA Circular issued on 29 July 2021](#) relating to the Coming into Force of the Cross-Border Distribution of Funds ("CBDF") Directive and Regulation.

The changes carried out to the Rulebook apply to Regulated Persons which fall under point (i) of the definition of 'Regulated Person in the Glossary to these Rules and which qualify as UCITS Management Companies; and to the UCITS, where the UCITS has not designated a UCITS Management Company.

Amendments being carried out to Chapter 1 of the Rulebook are the following:

- (a) [Regulation \(EU\) 2019/1156](#) (the "Cross-border Distribution of Funds Regulation") is directly applicable and came into force on *2 August 2021*.

A new Part D in Section 2 (Marketing Rules) has been included to incorporate provisions of Article 4 (Requirements for marketing communications) of the Cross-border Distribution of Funds Regulation.

- (b) The [ESMA Guidelines on marketing communications under the Regulation on cross-border distribution of funds \[ESMA34-45-1272\]](#) specify the application of the requirements for marketing communications set out in Article 4(1) of the Cross-border Distribution of Funds Regulation. These are applicable 6 months after the date of the publication of the respective translations, that is, *2 February 2022*.

A new Appendix 9 to Chapter 1 of the Rulebook has been included to implement the provisions of the said ESMA Guidelines. The requirements contained in the Appendix aim primarily to establish common principles on the identification as such of marketing communications, the description of risks and rewards of purchasing units of a UCITS in an equally prominent manner, and the fair, clear and not-misleading character of marketing communications, also taking into account on-line aspects of marketing communications.

Summary of Amendments

The below table summarises the amendments made:

New Part D (Rule R.1.2.78 to R.1.2.81) under section 2 (Marketing Rules) of Chapter 1	Amendments have been carried out to include provisions of Article 4 (Requirements for marketing communications) of Regulation (EU) 2019/1156
New Appendix 9 to Chapter 1	Amendments have been carried out to implement ESMA Guidelines on marketing communications under Regulation (EU) 2019/1156

Contacts

Any queries or requests for clarifications on the contents of this Circular should be addressed to Conduct Supervision on financialpromotion@mfsa.mt.